



City of Seattle

## City Clerk Transmittal/Consultant Contract Cover Page

Place this cover page on top of the contract package, and post package into Summit.

Transmit an original Contract with this Cover page to City Clerk.

Seattle City Clerk MS: CH-03-10 3<sup>rd</sup> Floor City Hall

Agreement #	/ Amendment #	/ P.O. #
Consultant Legal Business Name	Municipal Code Corporation (Municode)	
Consultant Doing Business As Name		
Contract Title	Seattle Municipal Code (SMC) Codification Services	
Execution Date (last signature)	03/09/15	
Contract Expiration	<input type="checkbox"/> When work is done <input checked="" type="checkbox"/> Specified Date <u>no later than 03/08/24</u>	
Department / Division	Law / Civil	
Department Contact/Phone	Darby DuComb / 206-684-8228	
Contract Type (check one)	<input checked="" type="checkbox"/> Standard (Non-Roster) <input type="checkbox"/> Roster Agreement	
Solicitation Type check one	<input checked="" type="checkbox"/> Advertisement <input type="checkbox"/> Roster (Informal Solicitation or Direct Selection from Roster) <input type="checkbox"/> Sole Source <input type="checkbox"/> Emergency <input type="checkbox"/> Adverse Effect <input type="checkbox"/> Direct Appointment (under \$47,000)	
Amendment Reason check all that apply	<input type="checkbox"/> Time Extension <input type="checkbox"/> Revised Scope of Work <input type="checkbox"/> Revised Payment <input type="checkbox"/> Other:	

Original Contract Amount	\$ 37,000
Total for this Amendment	\$
Amended Amounts to date	\$
<b>TOTAL CONTRACT AMOUNT</b>	<b>\$</b>



**City of Seattle**

**Seattle Municipal Code (SMC) Codification Services**

**HOSTED SOLUTION**

**Contract # 000003160**

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**City of Seattle**

**CONTRACT FOR CITYWIDE LEGISLATIVE MANAGEMENT SYSTEM**

This Contract is made and entered into by and between City of Seattle ("City"), a Washington municipal corporation; and Municipal Code Corporation (Municode), a corporation of the State of Florida, and authorized to do business in the State of Washington.

Vendor Business: Municipal Code Corporation

Name of Representative: Steffanie Rasmussen, Assistant VP Sales

Vendor Address: PO Box 2235, Tallahassee, FL 32316

Vendor Phone: 800-262-2633 ext. 1148

Vendor Fax: 850-575-8852

Vendor e-mail: steff@municode.com

WHEREAS, the purpose of this contract is to Software-as-a-Service (SaaS) solution for Republication and Recodification, Code Analysis and Review, Supplement Services, Electronic Publishing, Web Hosting Services, and the ability to expand to mobile technology. The primary goal of this system is to streamline related business processes in multiple departments; and

WHEREAS, Vendor was selected as a result of a Request for Proposal process initiated August 2, 2013 required by Seattle Municipal Code since costs are anticipated to exceed \$44,000 in value; and

WHEREAS, funds for this purpose are authorized through the City of Seattle annual budget;

**NOW, THEREFORE**, in consideration of the terms, conditions, covenants, and performance of the Statement of Work contained herein, as attached and made a part hereof, the City and Vendor mutually agree as follows:

**1 Term of Contract**

The initial term of this Agreement shall begin on the date of last party signature ("Effective Date"), and shall extend for a period of five (5) years, with a two, two year extension allowed at the option of the City. Such extensions shall be automatic, and shall go into effect without written confirmation, unless the City provides 120 days advance notice of the intention to not renew.

**2 Survivorship**

All purchase transactions and deliverables executed pursuant to the authority of this Contract shall be bound by all of the terms, conditions, prices and price discounts set forth herein, notwithstanding the expiration of the initial term of this Contract or any extensions thereof. Further, the terms, conditions and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract. In addition, the terms of the sections titled Overpayments to Vendor, Warranties, Section Headings, Incorporated Documents and Order of Precedence, Publicity, Review of Vendor Records, Indemnification, Dispute Resolution and Limitations of Liability, shall survive the termination of this Contract

**3 Statement of Work**

Vendor shall provide the products services and tasks as described in the Contract attachments. The Statement of Work may also be termed "work" herein.

The City seeks to purchase the most appropriate Codification and Publication Services from a qualified Vendor. The City prefers to acquire these Services from a proven Codification Vendor where

their product and services are already in use by other organizations and operating effectively. In addition to the solution, the City is soliciting training for the proposed services.

### **3.1 Project Scope**

The Vendor shall provide services, resources, and tools to support the successful implementation of a hosted application to publish the Seattle Municipal Code ("SMC") online in a user-friendly format, with updates to incorporate legislation on its effective date on an ongoing basis, including emergency legislation. In addition, the vendor will make available for a fee, on a one-time order or subscription basis, the complete SMC in printed format, with at least quarterly supplements.

The scope of the project will include the following:

1. Review of new legislation for typographical errors, consistency in style, and accuracy/currency of references to other SMC sections and other statutes.
2. Conversion of existing code to vendor format.
3. Enhancement of SMC to provide desired features. Refer to page 8 – Desired Features
4. System for sending updates to vendor.
5. Complete legal review of the current SMC. – See Technical and Functional Response.
6. Recodification

The scope of the project does **not** include the following:

7. Publication of Council meeting records (agendas, minutes, recordings)
8. Migrating legislative records to their system or developing a direct interface to any City system.

### **3.2 Project Deliverables**

***Functional Requirements shall include:***

#### **A. Search**

1. User-friendly, as determined by the City Standards. See Attachment #4 –2013 SMC User Survey
2. Full text searching across headers, footnotes, references, main text, and tables.
2. True Boolean search capability across all fields and full text.
3. Advanced search allowing limit to specific document parts (section header, exhibits, footnote, reference, etc.)
4. No limit on number of results returned.

#### **B. Navigation**

1. A table of contents must be available persistently and allow direct linking to titles, chapters, and sections. The table of contents must include subtitles, parts, and other subdivisions of titles and chapters.
2. Contextual information ("breadcrumbs") showing and linking to associated title, subtitle, division, part, and/or chapter of hierarchy must appear with each chapter and section retrieved.

### **C. Linking**

1. All Code references to City legislation must be hyperlinked to those records hosted by the Seattle City Clerk's Office as instructed by the City of Seattle. If in the future the location of legislation is changed, URL's within the SMC must be changed by the vendor to link to the new location, as directed by the City of Seattle.
2. Each section, chapter, and title of the online code must have a persistent URL to allow permanent, direct hyperlinking from other sites to that location in the SMC.
3. Internal references within the SMC must link to the referenced section, chapter, or title of the SMC.
4. Hyperlinks from references to external statutes and other documents as directed by the City of Seattle.

### **D. Display**

1. Site must be branded with City of Seattle Logo..
2. Functional, complete, and searchable site must be available in ADA compliant format.
3. Functional, complete, and searchable site must be available in mobile-friendly format.
4. On-line display can be downloaded as WORD and converted to a PDF anytime.

### **E. Graphics**

1. All graphics will be provided by the City of Seattle to the vendor. Graphics must be displayed in a manner approved by the City, in-line in the text of the code and not linked to by hyperlink. Graphics must be posted in open format, either .png, .gif or jpeg.

### **F. Codification Table**

1. A codification table showing history of amendments must be online with links to legislation hosted by the Seattle City Clerk's Web site or links to the legislation directly.

### **G. Output**

1. Formats: Print/Save Format Options: HTML, PDF, RTF, XML and WORD.
2. Ability to export in an Excel or Word format.
3. Ability to Print/Save individual section, chapter, or entire title to all available formats.
4. All data must be available for download by the City at any time in an open format.

### **H. Non-commercial site/City of Seattle branding**

1. The site must use current City of Seattle header and footer, as directed by the City of Seattle..
2. The site must not display advertising or links to outside companies or agencies except where linking from within the SMC as approved by the City of Seattle.

### **I. No charge to users for unlimited access to online code and features.**

1. All online features must be free to all users.
2. There will be copyright/use restrictions on any content of the online code in any format.

### ***Conversion Requirements.***

#### **A. Data Conversion**

1. Vendor will be provided rtf files of current SMC. Vendor will convert to required format for vendor's search system.
2. Vendor will follow the direction of the City of Seattle regarding handling of special cases in layout and formatting. (e.g., placement of exhibits not codified within a specific section).
3. Vendor will provide a schedule for data conversion.

**Technical Requirements**

**A. Speed average at peak hours and medium bandwidth (1-10 Mbps)**

- 1. Web page load time: < 3 seconds
- 2. Search results list return: <3 seconds
- 3. Record open from search results: <3 seconds

**B. Availability**

- 1. 99.999 percent minimum uptime (calculated monthly)

**C. Protection from Data Loss**

- 1. Recovery Services: Offsite data backup storage via media (e.g. tape) or cloud including rotation, retention, and periodic testing of data backups. (See Sample Service Level Agreement (SLA))

**D. Use Statistics/Analytics**

- 1. Summaries of user activity must be provided to the City on a monthly basis, including number of searches and number of individual records accessed; user devices and browsers; entry and exit points. Search logs showing content of searches by date range must be made available on request.

**E. Limits on Use of Data**

- 1. Identifying customer access and search data (including IP addresses) must not be sold, shared, or repurposed except as approved by the City of Seattle.

**3.2 Potential Payment Schedule**

The payment schedule is for information purposes only. The agreement will include a payment schedule providing for compensation to be paid in increments as project milestones are completed. The final payment will be withheld pending favorable completion of acceptance testing, if applicable. Payments for implementation services based on completion and approval of project milestones may include but are not limited to the following:

<b>Potential Payment Schedule</b>		
<b>Milestone</b>	<b>Implementation Milestone Payment</b>	<b>% of Contract Price</b>
1	Acceptance of initial hosted environment setup	20%
2	Final System Configuration Acceptance	20%
3	Functional Testing Acceptance	15%
4	Training completion	15%
5	Go-Live Acceptance (after 20-day stabilization)	30%

### **3.3 Implementation Services, Deliverables, Annual License and Subscription Fees**

The City shall pay for the implementation services, deliverables, initial software license and/or subscription fee, and annual subscription fee as follows:

1. Vendor shall have the right to issue invoices on a monthly basis in the amounts noted above for deliverables which have received acceptance in the prior month. Subject to the exercise of its rights and remedies, the City shall pay such invoices that are issued in accordance with the terms of this contract within 30 days of receipt.

Add reference to:

- Attachment A, Seattle Pricing Chart
- Attachment B, Service Level Agreement
- Attachment C, Style Checklist

## **4 Expansion Clause**

This contract may be expanded as mutually agreed, if such expansion is approved in writing by the Buyer from the City Purchasing Office of the Department of Finance and Administrative Services, City of Seattle. No other City employee is authorized to make such written notices. The Buyer will ensure the expansion meets the following criteria collectively: (a) it could not be separately bid, (b) the change is for a reasonable purpose, (c) the change was not reasonably known to either the City or vendors at time of bid or else was mentioned as a possibility in the bid (such as a change in environmental regulation or other law); (d) the change is not significant enough to be reasonably regarded as an independent body of work; (e) the change could not have attracted a different field of competition, and (f) the change does not vary the essential identity or main purpose of the contract. The Buyer shall make this determination, and may make exceptions for immaterial changes, emergency or sole source conditions, or for other situations as required in the opinion of the Buyer. Certain Work Orders or changes are not considered an expansion of scope, including an increase in quantities ordered, the exercise of options and alternates in the bid, change in design and specifications that does not expand the work beyond the limits provided for above, or ordering of work originally identified within the originating solicitation. If such changes are approved, changes are conducted as a written order issued by the City Purchasing Buyer in writing to the Vendor.

## **5 Work Order Process**

The Vendor shall furnish all Systems and Hosted Services goods and services ("Deliverables") pursuant to work orders issued under this Contract. Each work order shall be subject to all of the terms and conditions of this Contract, and incorporated into this Contract by this reference. The Vendor shall furnish all Systems and Hosted Services Deliverables specified in the Work Order in an aggregate, single, complete transaction and not as separate items. For each work order under this Contract, Vendor shall commence work upon issuance of a notice to proceed by the City. Work orders under this Contract may be generated by the City under the following conditions:

**5.1 The Work Order is within the scope of the original solicitation and contract or is within the allowed conditions for expansions under Section 4 (Expansion Clause) above**

**5.2 The City issues a request to change quantities of any deliverable**

**5.3 The City orders additional custom features, modifications, or interfaces for the hosted system prior to or after the acceptance period**

For any subsequent work order(s) requested by either party, the Vendor shall submit a detailed proposal for the change. The Vendor shall analyze, record, estimate and submit to the City, for its approval, the proposed scope for the changed or new work, a work schedule, and a rate or price adjustment for completion of the work to be changed or added. Once this proposal is received and approved by the City, a new work order will be issued for the changed or additional work. Upon the City's written approval and notice to proceed, the Vendor shall implement the change or additional work and invoice for the changed

or additional work consistent with the City's approval notice and the terms and conditions of this Contract.

The City may, at its option, add, delete or modify any part of any work order by giving Vendor notice of such change within the time period specified in the applicable work order. Within seven (7) days after the date of such notice, the Vendor shall deliver to the City an amended work order reflecting the change in description, schedule and/or dollar amount due using the unit prices as proposed for the specific work order in Vendor's Proposal.

The following Work Order of Projects shall be as follows:

- A. Q4 2014 and Q1 2015 - Online Code transition and Linking – Municode can transition the online Code to our database anytime.
  - 1. Linking to ordinances – Seattle will deliver an electronic database of available ordinances for inclusion into Municode OrdBank.
  - 2. Municode will place ordinances in the Municode OrdBank linked to the history notes (history note would be linked to Municode OrdBank per the above). Each ordinance costs \$15 to link. City will only be invoiced for historical ordinances as this service is included in the annual online hosting internet fee moving forward.
  - 3. Complete communication and roles and responsibilities plan per contract, especially Help Desk for administrator and users.
  - 4. Municode to provide online and in person training.
  - 5. Annual online hosting internet fee \$395 (first year no charge). Includes, Internet, Mobile Site, CodeBank, OrdBank and OrdLink. All items included moving forward from initial posting implementation date.
  - 6. Data storage fees = \$0
  - 7. SMC direct linking
  - 8. RCW, WAC, or other law direct linking = \$2.50 per link
  - 9. CodeBank Compare = \$350 per year
  - 10. eNotify = \$225 per year (update notification)
  
- B. Republish the complete SMC
  - 1. Provide the City with 61 new reprinted copies of the Code with new tabs integrated into the pages. The City will reuse its existing blue binders.
  - 2. The reprinted copies will reset the page numbers, remove supplement numbers and maintain existing columns and font sizes with the goal of maintaining the current numbers of pages total. Cost will be \$100 per editorial hour estimated at 40 hours plus the additional copy rate of \$127.50 per book for printing the new copies and \$25 per complete set of tabs.
  - 3. City to work with Municode to develop a detailed style sheet creating a consistent style of the SMC moving forward. Until then, Municode will follow the attached style sheet and City ordinances. (See Attachment C)
  - 4. Once the City has an official style approved, City to re-adopt the SMC with new style via adopted ordinance.
  - 5. Supplement service to continue as normal during the republication to conform the SMC to the newly adopted style as outlined by adopted legislation
  
- C. Reformatting – Stylistic Review – Review code title by title against City style sheet and draft ordinances to adopt stylistic changes. City to adopt changes by ordinance. This will include non-substantive code changes, grammatical corrections, renaming and reorganizing titles, chapters, subchapters, and creating spaces for future titles and chapters. Cost to be \$12.50 per page added/amended as outlined by adopted legislation.
  
- D. Recodify – Local, State, Federal Law or other Reference updating as mutually agreed upon in writing - \$95 per hour as outlined in the RFP response plus the supplement per page rate to update the finding in the Code at \$12.50 per page.

1. The scope and cost of the title by title review for legal reference errors will first be agreed upon in writing.
  2. City will adopt needed changes by ordinance.
- E. Legal Review of the SMC - \$95 per hour as outlined in the RFP response. The first 5 hours of teleconferencing is provided at no charge, then additional teleconferences will be invoiced at \$95 per hour. If an on-site conference is elected the City would be invoiced for attorney travel expenses and \$95 per hour for the conference time.
1. The Legal Review of the SMC will be conducted by a Municode lawyer in phases and groups by Titles after authorization by the City Attorney's Office. It is recommended that the Local, State, Federal or other Law Review also be completed at this stage. One set of groupings include:
    - a. Administrative Titles (1- General Provisions, 2- Elections, 3- Administration, 4- Personnel, & the Administrative Code as an Appendix)
    - b. Finance Titles (5- Tax, 6- Business)
    - c. Public Work Titles (15- Streets, 20- Public Works, 21- Utilities)
    - d. General Titles (7- Consumer Protection, 9- Animal, 10- Health, 14- Human Rights, 16- Harbor Code, 17- Civic Centers, 18- Parks & Recreation)
    - e. Criminal & Traffic Titles (11- Vehicles & Traffic, 12A- Criminal Code)
    - f. Title 22- Building & Construction Codes; Title 23- Land Use Code; Title 24- Zoning & Subdivisions; Title 25- Environmental Protection & Historic Preservation
  2. Upon completion of each Title grouping Legal review a teleconference will be held with the Municode attorney and the City to review the findings. The City will then decide to implement the findings by adopting ordinances or Municode can implement the findings and the City will potentially need to then re-adopt those Titles.
- F. Administrative Code and Department Rules
1. Legal Review at \$95 per hour. The first 5 hours of teleconferencing is provided at no charge then additional teleconferences will be invoiced at \$95 per hour. If an on-site conference is elected the City would be invoiced for attorney travel expenses and \$95 per hour for the conference time.
  2. Can be published at \$14 per page including conversion to database, review for errors, typos, style and reorganization and development of numbering system.
  3. Post the Administrative Code online at \$350 per year
  4. Supplements at \$18 per page. Price to be re-evaluated if subscribers enroll when material is published.
- G. Supplementation costs
1. Supplement per page rate = \$12.50 (includes printing of each supplement)
  2. Supplement per page rate if published by effective date = \$20.50 (includes printing of each supplement)
  3. Graphics, images, maps, tables and diagrams \$10 per page.
  4. PDF/XML and WORD version of the Code upon completion of each supplement is no charge to the City.
  5. Additional copies of the SMC (can be purchased anytime) \$250 complete 4 volume set with pages, tabs and poste binders or \$127.50 for the 4 volume set pages only.
- H. Possible features to offer in the future. Pricing to be mutually agreed upon by both parties when services are available.
1. Total Ordinance Repository - National Ordinance database search access

2. State Statute Searching (or other Federal/State/Related law searching)
3. Public Comments/City Annotations (Sharing)
4. Online Code Language Translation
5. eBook Online Code versions
6. Enhanced zoning editorial platform
7. Revalocity – Utility management platform
8. Definition and Table linking
9. Munidocs
10. Just FOIA
11. Munipro
12. Legistar/Granicus Integration
13. Historical OrdBank
14. Historical CodeBank

The Vendor shall not proceed unless authorized by a mutually agreed upon amendment. Such extra work shall be in compliance with Section 4 (Expansion Clause) and shall be authorized in writing only by the City Purchasing Buyer, Department of Finance and Administrative Services. Any costs incurred due to the performance of extra work will not be reimbursed until or unless an amendment is agreed upon.

The City does not guarantee utilization of goods and services provided for in this Contract for which the City has not issued a work order(s).

## **6 Documentation**

Vendor shall provide two sets of Documentation for use in electronic format compatible with Microsoft Corporation's then generally available Office products and printed format in accordance with the terms of this Contract. Upgrades and revisions to this Documentation shall be provided while Vendor is providing Services therefor. There shall be no additional charge for the Documentation or updates thereto, in whatever form provided. If Vendor maintains its technical, maintenance and installation documentation on a web site, Vendor may fulfill the obligations set forth in this section by providing the City access to its web-based Documentation information.

The City reserves the right to withhold payment for a deliverable, modification or enhancement until it receives all documentation associated with the same.

## **7 Payment Procedures**

The Maximum Amount payable under this Contract shall be as set forth in the Seattle Pricing Chart (Attachment A) and Statement of Work.

Vendor shall only invoice upon the City's approval of the deliverable and in a manner consistent with the payment schedule attached, if any. Once the City has received and approved the invoice, the City will provide payment within thirty (30) days. The aggregate amount represents the full and final amount to be paid by the City for all expenses incurred and incidentals necessary to complete the work. Any fees invoiced by vendor for late payment, if any, shall not exceed 1% per month.

The City shall not be obligated to pay any other compensation, fees, charges, prices or costs, nor shall Vendor charge any additional compensation for completing the work order of the Statement of Work. All costs invoiced to the City, shall be associated with an active and open work order.

Invoices for hardware and software installed in City facilities and other work performed under this Contract shall be submitted, in writing to the City's Project Manager. Invoices shall include such information as prescribed in the Specifications or Statement of Work, and is necessary for the City to determine the exact nature of all expenditures and shall reference this Contract. Additional payment terms or invoice instructions may be mutually agreed upon by the City and the Vendor.

Payment does not constitute whole or partial acceptance; City acceptance of the System shall only occur by formal written notice to that effect.

### **7.1 Overpayments to Vendor**

The City may credit erroneous payments or overpayments against amounts invoiced by Vendor. If the City does not take such credits, Vendor shall promptly, but in all cases within 30 days, refund to the City the full amount of any erroneous payment or overpayment upon Notice of an erroneous payment or overpayment to which Vendor is not entitled.

## **7.2 Credits**

Any credits due the City under this Contract may be applied against Vendor's invoices with appropriate information attached, upon giving of Notice required herein, if any, by the City to Vendor.

## **7.3 Increases**

Vendor shall not increase the Maximum Amount due from the City under this Contract for all Goods, Services and Deliverables, Purchase Prices, or other Charges during the Initial Term of this Contract except as otherwise specifically described in this Contract. Vendor may increase its Hosted Service Charges at the end of the Initial Term for each Renewal Term, upon 90 days prior Notice to the City. Such Charges shall be increased no more than CPI or applicable per Renewal Term. If the Charges are increased, then, notwithstanding anything to the contrary contained herein, the City may upon 30 days prior Notice to Contractor, terminate this Contract in accordance with Section 39, Termination.

## **7.4 Advance Payment Prohibited**

The City does not accept requests for early payment, down payment or partial payment, unless the Bid or Proposal Submittal specifically allows such pre-payment proposals or alternates within the bid process. Maintenance, subscriptions may be paid up to one year in advance provided that should the City terminate early, the amount paid shall be reimbursed to the City on a prorated basis; all other expenses are payable net 30 days after receipt and acceptance of satisfactory compliance.

## **7.5 Travel**

If the specifications and scope of work for this purchase have specifically identified travel and/or other direct costs that the City intends to reimburse, then the following requirements shall apply. All such expenses must be pre-approved in writing by the Project Manager. If the specifications and scope of work do not clearly identify such costs for compensation, than no compensation will be given.

7.5.1 City will reimburse the Contractor at actual cost for expenditures that are pre-approved by the City in writing and are necessary and directly applicable to the work required by this Contract provided that similar direct project costs related to the contracts of other clients are consistently accounted for in a like manner. Such direct project costs may not be charged as part of overhead expenses or include a markup. Other direct charges may include, but are not limited to the following types of items: travel, printing, cell phone, supplies, materials, computer charges, and fees of subconsultants or subcontractors.

7.5.2 The billing for third party direct expenses specifically identifiable with this project shall be an itemized listing of the charges supported by copies of the original bills, invoices, expense accounts, subconsultant/subcontractor paid invoices, and other supporting documents used by the Contractor to generate invoice(s) to the City. The original supporting documents shall be available to the City for inspection upon request. All charges must be necessary for the services provided under this Contract.

7.5.3 The City will reimburse the actual cost for travel expenses incurred as evidenced by copies of receipts (excluding meals) supporting such travel expenses, and in accordance with the City of Seattle Travel Policy, details of which can be provided upon request.

### **7.5.4 Airfare**

Airfare will be reimbursed at the actual cost of the airline ticket. The City will reimburse for Economy or Coach Fare only. Receipts detailing each airfare are required.

### **7.5.5 Meals**

Meals will be reimbursed at the Federal Per Diem daily meal rate (*excluding the "Incidental" portion of*

*the published Federal M&I Rate*) for the city in which the work is performed. *Receipts are not required as documentation.* The invoice shall state "the meals are being billed at the Federal Per Diem daily meal rate", and shall detail how many of each meal is being billed (e.g. the number of breakfasts, lunches, and dinners). The City will not reimburse for alcohol at any time.

#### 7.5.6 Lodging

Lodging will be reimbursed at actual cost incurred up to a maximum of the published Runzheimer Cost Index for the city in which the work is performed (*the current maximum allowed reimbursement amount can be provided upon request*). Receipts detailing each day / night lodging are required. The City will not reimburse for ancillary expenses charged to the room (e.g. movies, laundry, mini bar, refreshment center, sundry items, etc.). As an alternative, lodging may be billed at the published Federal Per Diem daily lodging rate for the city in which the work is performed. If this method is used, receipts are not required for documentation. If this method is used, the invoice shall state that "the lodging is being billed at the Federal Per Diem daily lodging rate."

#### 7.5.7 Vehicle mileage

Vehicle mileage will be reimbursed at the Federal Internal Revenue Service Standard Business Mileage Rate in affect at the time the mileage expense is incurred (currently that rate is 55.5 cents per mile.) Please note: payment for mileage for long distances traveled will not be more than an equivalent trip round-trip airfare of a common carrier for a coach or economy class ticket.

#### 7.5.8 Rental Car

Rental car expenses will be reimbursed at the actual cost of the rental. Rental car receipts are required for all rental car expenses. The City will reimburse for a standard car of a mid-size class or less. The City will not reimburse for ancillary expenses charged to the car rental (e.g. GPS unit).

#### 7.5.9 Miscellaneous Travel (e.g. parking, rental car gas, taxi, shuttle, toll fees, ferry fees, etc.)

Miscellaneous travel expenses will be reimbursed at the actual cost incurred. Receipts are required for each expense of \$10.00 or more.

#### 7.5.10 Miscellaneous other business expenses (e.g. printing, photo development, binding)

Other miscellaneous business expenses will be reimbursed at the actual cost incurred. Receipts are required for all miscellaneous expenses that are billed.

#### 7.5.11 Subcontractor

Subcontractor expenses will be reimbursed at the actual cost incurred. Copies of all subcontractor invoices that are rebilled to the City are required.

### 7.6 Disputed Work

Notwithstanding all above, if the City believes in good faith that some portion of Work has not been completed satisfactorily, the City may require Vendor to correct such work prior to The City payment. In such event, the City will provide to Vendor an explanation of the concern and the remedy that the City expects. The City may withhold from any payment that is otherwise due, an amount that the City in good faith finds to be under dispute, or if the Vendor does not provide a sufficient remedy, The City may retain the amount equal to the cost to The City for otherwise correcting or remedying the work not properly completed.

## 8 Taxes, Fees and Licenses

### 8.1 Taxes

Where required by state statute, ordinance or regulation, Vendor shall pay for and maintain in current status all taxes that are necessary for contract performance. Unless otherwise indicated, The City agrees to pay State of Washington sales or use taxes on all applicable consumer services and materials purchased. No charge by the Vendor shall be made for federal excise taxes and The City agrees to furnish Vendor with an exemption certificate where appropriate.

Vendor is to calculate and enter the appropriate Washington State and local sales tax on the invoice. Tax

is to be computed on new items after deduction of any trade-in, in accordance with WAC 458-20-247.

### **8.2 Fees and Licenses:**

Vendor shall pay for and maintain in a current status, any license fees, assessments, permit charges, etc., which are necessary for contract performance. It is the Vendor's sole responsibility to monitor and determine any changes or the enactment of any subsequent requirements for said fees, assessments, or charges and to immediately comply with said changes during the entire term of this Contract. Vendor must pay all custom duties, brokerage or import fees where applicable as part of the contract price. Vendor shall take all necessary actions to ensure that materials or equipment purchased are expedited through customs.

## **9 Timely Completion**

Time is of the Essence: The City has an immediate need to implement the System and/or Software and equipment for the management and operation of the City. Therefore, time is of the essence in all matters relating to this Contract

For this contract, a delay in the Vendor's completion of work would affect the governmental operations of the City. A statement of liquidated damages is in the contract to be signed by the winning vendor, using a calculated assessment of liquidated damages. Compensation payable to the vendor for delayed performance of work identified as a milestone event under this Contract shall be reduced by \$1,000 Dollars per calendar day for each and every day (or portion thereof) after the scheduled milestone date set forth in the Contract that performance and completion of such work is delayed.

Neither the provisions of this subsection nor their application or implementation shall limit the City's right to pursue any other remedy available to it in law or at equity under this Contract. The City shall have the right to assess Liquidated Damages as calculated by the City given the provision above, as a deduction from any payments due to the Vendor.

## **10 Access to Hosted Services**

The Vendor grants to the City a nonexclusive license to use and/or access to use and access the Hosted Services in whole or in part for supporting the internal operations of the City.

If a License:

The licenses hereunder are granted as of the earlier of the date of first access or delivery of the Vendor Technology, Deliverables, System, and Hosted Services and continue until the City returns or ceases to use and access the Vendor Technology, Deliverables, System and Hosted Services.

If a Hosted Services:

The access to Hosted Services will continue until the City ceases to use Hosted Services or the Agreement is otherwise terminated.

Vendor hereby grants to the City a personal, nontransferable, nonexclusive, revocable Use License to use the Vendor's Software and to access the Software only during the term of this Agreement.

## **11 Software Upgrades and Enhancements**

Upgrades and enhancements, and other maintenance and support services will be provided in accordance with the Service Level Agreement (Attachment 3).

OR

Vendor shall:

- A. Supply at no additional cost updated versions of the Software to operate on upgraded versions of operating systems, upgraded versions of firmware, or upgraded versions of Web browsers;
- B. Supply at no additional cost interface modules that are developed by Vendor for interfacing the Software to other Software products; and
- C. Supply at no additional cost updated versions of the Software that encompass improvements,

extensions, maintenance updates, error corrections, or other changes that are logical improvements or extensions of the original Software supplied to City

- D. Unless otherwise mutually agreed to in writing, Vendor shall maintain any and all Third-party Software products at their most current version or no more than one version back from the most current version and at no additional charge. However, Vendor shall not maintain any Third-party Software versions, including one version back, if any such version would prevent the City from using any functions, in whole or in part, or would cause Deficiencies in the System. If implementation of an upgrade to a Third-party Software product requires personnel in addition to the Staff proposed in the Response for the Hosted Services, the City and Vendor shall discuss whether to implement such an upgrade and, if mutually agreed upon in writing, any additional Charges to be paid by the City for such upgrade. Any additional costs that are charged by a Third-party Software manufacturer for an upgrade to a Third-party Software product that is not covered by such product's maintenance agreement shall be charged to and paid for by Vendor.

## **12 Warranties**

**12.1 Deliverables** Vendor represents and warrants that each Deliverable shall meet and conform to its applicable Specifications as provided herein following its Acceptance and during the Term.

12.1.2 Vendor also represents and warrants that the System and Hosted Services, in whole and in part, shall operate in accordance with the Detailed System Design Deliverables, the Performance Standards, the other Acceptance Criteria, the Documentation, and this Contract following their Acceptance and during the Term.

12.1.3 Vendor represents and warrants that: (a) It shall perform all Services required pursuant to this Agreement in a professional manner, with high quality, (b) It shall give the highest priority to the performance of the Services, (c) Time shall be of the essence in connection with performance of the Services for Deliverables. Vendor shall immediately re-perform Services which are not in compliance with such representations and warranties at no cost to the City.

### **12.2 Warranty Against Planned Obsolescence**

The Vendor warrants that the products and services proposed to and acquired by the City under this Contract are new and of current manufacture, and that it has no current plans for announcing a replacement line that would be marketed by Vendor as a replacement for any of the products provided to the City under this Contract and would result in reduced support for the product line within which the System furnished to the City is contained. The Vendor further warrants that, in the event that a major change in hardware, software, or operating system occurs that radically alters the design architecture of the System and makes the current design architecture obsolete within three (3) years after full execution of this Contract, and if the City continues its annual maintenance Contract with the Vendor, the Vendor shall provide the City with a replacement hardware, software, or operating system(s) that continues the full functionality of the systems, at no extra cost to the City.

### **12.3 No Surreptitious Code Warranty**

12.3.1 Vendor warrants to the City that the System, Hosted Services and Vendor Technology provided to the City under this Contract contain or shall contain no Self-help Code or any Unauthorized Code. Vendor further warrants that Vendor shall not introduce, via modem or otherwise, any code or mechanism that electronically notifies Vendor of any fact or event, or any key, node, lock, time-out, or other function, implemented by any type of means or under any circumstances, that may restrict the City's use of or access to the Software, Data, or Equipment, in whole or in part, based on any type of limiting criteria, including without limitation frequency or duration of use for any copy of the Software provided to the City under this Contract.

12.3.2 Vendor shall defend the City against any claim, and indemnify and hold harmless the City against any loss or expense arising out of any breach of this warranty. No limitation of liability, whether contractual or statutory, shall apply to a breach of this warranty.

### **12.4 Title Warranty and Warranty against Infringement**

Vendor hereby warrants and represents to City that Vendor is the owner of the Vendor Technology, Hosted Services and System licensed hereunder or otherwise has the right to grant to the City, the licensed rights to the Vendor Technology, Hosted Services, and System provided by Vendor through this Agreement without violating any rights of any third party worldwide. Vendor represents and warrants that: (i) Vendor is not aware of any claim, investigation, litigation, action, suit or administrative or judicial proceeding pending or threatened based on claims that the Vendor Technology, System or Hosted Services infringe or misappropriate any patents, copyrights, or trade secrets of any third party, and (ii) the Vendor Technology, System and Hosted Services do not infringe upon or misappropriate any patents, copyrights, trade secrets or any other intellectual property rights of any third party. The City shall receive prompt Notice of each notice or claim of copyright infringement or infringement or misappropriation of other intellectual property right worldwide received by Vendor with respect to the Vendor Technology, Hosted Services, or System delivered under this Agreement.

Vendor shall, at its expense, defend, indemnify, and hold harmless the City and its employees, officers, directors, contractors and agents from and against any claim or action against the City which is based on a claim that any Deliverable or Service any part thereof under this Agreement infringes a patent, copyright, utility model, industrial design, mask work, trademark, or other proprietary right or misappropriates a trade secret, and Vendor shall pay all losses, liabilities, damages, penalties, costs, fees (including reasonable attorneys' fees) and expenses caused by or arising from such claim. The City shall promptly give Vendor notice of any such claim, and warrants that no amendatory material sent for inclusion in the Code we be protected. In the event a final injunction or order is obtained against the City's full use of the Deliverables/Services/System or any portion thereof as a result of any such claim, suit or proceeding, and if no further appeal of such ruling is practicable, Vendor shall, as mutually agreed upon and at Vendor's expense:

- 12.4.1 Procure for the City the right to continue full use of the Hosted System; or
- 12.4.2 Replace or modify the same so that it becomes non-infringing (which modification or replacement shall not affect the obligation to ensure the Deliverables/Services/System conforms with applicable Statement of Work); or
- 12.4.3 If the product was purchased and the actions described in item (1) or (2) of Section 11.4, are not practicable, refund the full purchase price and remain liable for all damages suffered by the City as a result of the loss of the infringing product and any other continued utility of which to the City is adversely affected by the removal of the infringing product, and hold the City harmless from any further liability therefor under any applicable Order, Settlement, or other Contract.

In no event shall the City be liable to Vendor for any lease, rental, service, or maintenance payments after the date, if any, that the City is no longer legally permitted to use the Hosted Services because of such actual or claimed infringement.

No settlement that prevents the City from continuing to use the Hosted Service, other products or Software documentation as provided in this Contract shall be made without the City's prior written consent. In all events, the City shall have the right to participate at its own expense in the defense of any such suit or proceeding through counsel of its own choosing.

The indemnification obligation set forth in this section shall survive the expiration or earlier termination of this Contract.

## **12.5 No Liens**

The Vendor warrants that Vendor is authorized to provide full use of the Hosted Services to the City as provided herein and that such Hosted Services is not subject to any lien, claim or encumbrance inconsistent with any of the City's rights under this Contract and that the City is entitled to and shall be able to enjoy quiet possession and use of the Hosted Services without interruption by Vendor or any other person making a claim under or through the Vendor or by right of paramount title.

## **12.6 Maintenance Services Warranty**

The Vendor warrants that, in performing the services under This Contract, the Vendor shall strictly comply with the descriptions and representations as to the services, including performance capabilities, accuracy,

completeness, characteristics, Statement of Work, configurations, standards, function and requirements, which appear in this Contract and in the Vendor's response to the City's Request for Proposal. Errors or omissions committed by the Vendor in the course of providing Services shall be remedied by the Vendor at its own expense.

#### **12.7 Merchantability and Fitness Warranty**

Vendor represents and warrants that the Software, other products and Software Documentation will be merchantable and will be fit for the particular purposes established in the City's RFP and the Vendor's response to the City's RFP.

#### **12.8 Warrant of Compliance with Applicable Law**

12.8.1 Vendor warrants that the System and Hosted Services shall comply with all applicable federal, State and local laws, regulations, codes and ordinances. Contractor warrants that, throughout the Term of this Agreement, the System and Hosted Services shall comply with changes to and new applicable federal, State and local laws, regulations, codes and ordinances.

12.8.2 Vendor represents and warrants that it shall comply with all applicable local, State, and federal licensing, accreditation and registration requirements and standards necessary in the performance of the Services.

#### **12.9 Written Commitments**

Any written commitment by Vendor within the scope of this Contract shall be binding upon Vendor. Failure of Vendor to fulfill such a commitment may constitute a material breach and shall render Vendor liable for damages under the terms of this Contract. For purposes of this section, a commitment by Vendor includes but is not limited to: (i) Purchase Prices, Charges, discounts, and options committed to remain in force over a specified period of time; and (ii) any warranty or representation made by Vendor in its Response or contained in any Vendor publications, written materials, schedules, charts, diagrams, tables, descriptions, other written representations, and any other communication medium accompanying or referred to in its Response or used to effect the sale to the City.

#### **12.10 Survival of Warranties and Representations**

The representations and warranties of the Vendor made pursuant to this Contract shall survive the delivery of the System, the payment of the purchase price, and the expiration or earlier termination of this Contract.

### **13 Warranty Services and Hosted Services**

**13.1 General Responsibilities** The Vendor warrants the hosted service for the term of this agreement. During the Warranty Periods, Vendor shall provide Services as described below in this Section as the Warranty Services at no additional cost to correct Deficiencies in the System and Hosted Services and to repair and maintain the System and Hosted Services in accordance with the Specifications. Vendor shall perform these Warranty Services after the Warranty Periods and during Hosted Services at Charges described in Exhibit A, Statement of Work. Vendor's Warranty Service responsibilities shall include but not be limited to the following while assisting THE CITY in operating and maintaining the System and Hosted Services:

13.1.1 Promptly repair or replace the System and Hosted Services, or any portion thereof, that has Deficiencies;

13.1.2 Maintain the System and Hosted Services in accordance with the Specifications and terms of this Agreement and meet all availability and system performance service levels as specified in the Statement of work and/or Service Level Agreement.(SLA) In the event the Hosted System requires failover activities, then the Vendor shall be responsible for continuance of the Hosted System and the City shall not be subject additional costs unless otherwise specified in this agreement

- 13.1.3 Upon request by the City, re-perform any Service that fails to meet the requirements of this Contract at no additional cost;
- 13.1.4 Coordinate with the City all tasks related to correcting problems and Deficiencies connected with the Software or the Equipment.
- 13.1.5 Inquiry Assistance. Contractor shall respond to inquiries from the City, and with the following, as applicable:
  - 13.1.6 Responses to questions relating to the Software, including without limitation isolating problems to the Software, Data or Equipment;
  - 13.1.7 The development, on a best efforts basis, of a temporary solution to or an emergency bypass of a Deficiency;
  - 13.1.8 Corrections and repairs of errors, problems or Deficiencies with the Software, to the extent technically feasible; and
  - 13.1.9 Clarification of Documentation.

## **14 Enhancements**

Vendor shall provide the City with all Enhancements and associated documentation that are provided as general releases to the Software, in whole or in part, as part of the Hosted Services. Such Documentation shall be adequate to inform the City of the problems resolved including any significant differences resulting from the release which are known by Vendor. Vendor warrants that each such Enhancement general release shall be tested and perform according to the Specifications. Vendor agrees to correct corrupted Data that may result from any System Deficiency introduced by the Enhancement at no cost to the City.

Enhancements to correct any Deficiency shall be provided to the City at no additional cost and without the need for a Work Order.

Should the Vendor not be able to correct the hosted system so that it complies with the specifications in the Statement of Work and/or Service Level Agreement, to the City's reasonable satisfaction in a timely manner, the City may terminate this Contract and Section 39 of this Contract shall be executed.

## **15 Ownership of Deliverables**

Except for the licensed System Software and its related documentation, all data and work products produced under this Contract shall be considered work made for hire under the U.S. Copyright Act, 17 U.S.C. 101 et seq, and shall be owned by the City.

The City shall own all right, title and interest in and to the City's Confidential Information (defined in Section 36. The City's intellectual property, and the City's Property. To the extent Vendor produces any Data, Vendor shall take all actions necessary and shall transfer ownership of the Data to the City following its development. The Data shall be deemed City of Seattle work made for hire for all purposes of copyright law, and copyright shall belong solely to the City. In the event that any such work is adjudged to be not a work made for hire, Vendor agrees to assign and hereby assigns all copyright in such work to the City. Vendor shall, assist the City or its nominees to obtain copyrights, trademarks, or patents for all such works. The Vendor agrees to execute all papers and to give all facts known to it necessary to secure United States copyrights and to transfer or cause to transfer to the City right, title and interest in and to such works.

## **16 Protection of Persons and Property**

### **16.1 Person**

The Vendor and the City shall each take reasonable precautions for the safety of employees of the other, and shall each comply with all applicable provisions of federal, state, and local laws, codes and regulations to prevent or avoid any accident or injury to a person on, about or adjacent to any premises where work under this Contract is being performed.

### **16.2 Property**

The Vendor shall take reasonable steps to protect the City's property from injury or loss arising in connection with the Vendor's performance or failure of performance under this Contract.

**16.3 No Smoking**

The Vendor shall not allow any employee of the Vendor or any sub or agent thereof to smoke inside any City facility.

**17 Contract Notices, Deliverable Materials and Invoices Delivery**

The City Project Manager shall receive project correspondence, including Work Orders, Change Orders, invoices and other general project correspondence. Unless notified otherwise, such correspondence shall be addressed to

If delivered by the U.S. Postal Service, it must be addressed to:

Dana Anderson  
Director of Administration  
Seattle City Attorney's Office  
PO Box 94769  
Seattle, WA 98124-4769

If delivered by any other company, it must be addressed to:

Dana Anderson  
Director of Administration  
Seattle City Attorney's Office  
600 Fourth Avenue, 4<sup>th</sup> Floor  
Seattle, WA 98124-4769

Phone: 206-684-7761

Fax: 206-684-8284

E-Mail: [dana.anderson@seattle.gov](mailto:dana.anderson@seattle.gov)

All official notices **regarding this Contract** shall be delivered to the following addresses (or such other address(es) as either party may designate in writing):

**If to City delivered by the U.S. Postal Service, it must be addressed to:**

Jason Edens, Senior Buyer  
City Purchasing Division  
PO Box 94687  
Seattle, WA 98124-4687

**If delivered by any other company or the US Postal Express Service:**

Jason Edens, Senior Buyer  
City Purchasing Division  
Seattle Municipal Tower  
700 5<sup>th</sup> Ave., # 4350  
Seattle, WA 98104-5042

Phone: 206-733-9583

Fax: 206-233-5155

E-Mail: [Jason.Edens@seattle.gov](mailto:Jason.Edens@seattle.gov)

## 18 Security

Vendor shall provide to the City an attestation by an objective third party or third party software, stating that the hosted solution: **MunicodeNEXT**, portal application has been tested for common security vulnerabilities as articulated by the "OWASP Top-10". These include SQL injection, cross-site scripting, cross-site request forgery, and others. See [www.owasp.org](http://www.owasp.org) for details. This testing must be performed at the expense of the vendor and by an objective third party or use third party software.

The attestation may be simply an executive summary of the technical report, stating that the application has been tested against the aforementioned standard, and found to be free of security defect. The vendor will work in good faith to resolve any security issues identified based on risk imposed from those issues

The City may require the Vendor re-test the **MunicodeNEXT** Web portal Hosted System if there are significant changes such as addition of functionality, structural or architecture changes, or the addition of infrastructure components

### **Vendor Security at the time of contract execution**

**Physical Security** – the Municode public facing systems are co-located in a datacenter operated by Peak 10 in Norcross, GA. This data center is SAS 70 Type II and PCI compliant, employing all modern data center best practices with regard to physical security. All individual entering the data center must be active customers or authorized vendors with badge and PIN access to the front door. Biometric authentication is required to enter the data center facility, and each rack is locked with a combination lock to prevent unauthorized access. The facility is monitored by camera 24/7 to further provide physical security.

**Security Products**- Municode secures its systems using enterprise grade security products. We employ firewalls from Palo Alto networks to secure the perimeter and endpoint security from Symantec to provide anti-virus scanning and threat detection on all servers, desktops, laptops, virtual machines, and mobile devices.

**System Access** - We allow as few technicians as possible access to our systems and make sure we have documented their access rights so that the minimum level of access is granted. Municode employs SSL certificates where applicable and routinely scans firewall and endpoint security logs for any security issues.

## 19 Vendor Authorizations

Vendor represents and warrants that:

- A. Vendor is a [corporation duly incorporated], validly existing and in good standing under the laws of its state of incorporation and has all requisite corporate power and authority to execute, deliver and perform its obligations under this Contract;
- B. The execution, delivery and performance of this Contract has been duly authorized by Vendor and no approval, authorization or consent of any governmental or regulatory agency is required to be obtained in order for Vendor to enter into this Contract and perform its obligations under this Contract;
- C. Vendor is duly authorized to conduct business in and is in good standing in each jurisdiction in which Vendor will conduct business in connection with this Contract;
- D. Vendor has obtained all licenses, certifications, permits, and authorizations necessary to perform the Services under this Contract and currently is in good standing with all regulatory agencies that regulate any or all aspects of Vendor's performance of the Services. Vendor will maintain all required certifications, licenses, permits, and authorizations during the term of this Contract at its own expense. Vendor must maintain any certifications that were specified as a minimum requirement in the selection process. If during the period of the contract, a new certification is established as a minimum requirement for similar applications, the vendor shall, within a reasonable time, obtain that certification.
- E. Vendor has the full power and authority to grant to the City, the rights described in this Contract

without violating any rights of any third party and that there is currently no actual or threatened suit by any such third party based on an alleged violation of such rights by Vendor. Vendor further represents and warrants that the person executing this Contract for Vendor has actual authority to bind Vendor to each and every term, condition and obligation to this Contract, and that all requirements of Vendor have been fulfilled to provide such actual authority.

## **20 Ability to Perform**

Vendor represents and warrants that:

- A. Vendor has and shall continue to have the financial ability, by itself or through a line of credit or other financial support, to provide THE CITY with at least six months of Services, including Hosted Services during any period of this Contract, without reimbursement for the Services or expenses;
- B. Vendor has and shall continue to have the financial resources to fund the capital expenditures required under this Contract without advances by THE CITY or assignment of any payments by THE CITY to a financing source;
- C. Each subcontractor providing a substantial amount of the Services under this Contract has and shall continue to have the financial resources to carry out its duties under this Contract; and
- D. Vendor's methods of accounting are consistent with generally accepted accounting principles and are capable of segregating costs by release, stage, segment, or cost objective in order to support Change Order accounting.
- E. Vendor represents and warrants that it has the requisite training, skill and experience necessary to provide Work and is appropriately accredited and licensed by all applicable agencies and governmental entities.

## **21 Inspection**

Work shall be subject, at all times, to inspection by and with approval of the City, but the making (or failure or delay in making) such inspection or approval shall not relieve Vendor of responsibility for performance of the Work in accordance with this Contract, notwithstanding the City's knowledge of defective or noncomplying performance, its substantiality or the ease of its discovery. Vendor shall provide sufficient, safe, and proper facilities and equipment for such inspection and free access to such facilities.

## **22 Affirmative Efforts for Utilization of Women and Minority Subcontracting, Non-Discrimination**

- A. Employment Actions: Contractor shall not discriminate against any employee or applicant for employment because of race, religion, creed, age, color, sex, marital status, sexual orientation, gender identity, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their creed, religion, race, age, color, sex, national origin, marital status, political ideology, ancestry, sexual orientation, gender identity, or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to employment, upgrading, promotion, demotion, or transfer; recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training.
- B. In accordance with Seattle Municipal Code Chapter 20.42, Contractor shall actively solicit the employment and subcontracting of women and minority group members when there are commercially useful purposes for fulfilling the scope of work.
- C. If a WMBE Inclusion Plan is requested by and submitted to the City, the WMBE Inclusion Plan is material to the contract. The requirements and conditions stated in the WMBE Inclusion Plan shall be enforced as a contract requirement.
- D. If upon investigation, the Director of Purchasing and Contracting Services finds probable cause to believe that the Contractor has failed to comply with the requirements of this Section, the

Contractor shall be notified in writing. The Director shall give Contractor an opportunity to be heard with ten calendar days' notice. If, after the Contractor's opportunity to be heard, the Director still finds probable cause, s/he may suspend the Contract and/or withhold any funds due or to become due to the Contractor, pending compliance by the Contractor with the requirements of this Section.

- E. Any violation of the mandatory requirements of this Section, or a violation of Seattle Municipal Code Chapter 14.04 (Fair Employment Practices), Chapter 14.10 (Fair Contracting Practices), Chapter 20.45 (City Contracts – Non-Discrimination in Benefits), or other local, state, or federal non-discrimination laws, shall be a material of contract for which the Contractor may be subject to damages and sanctions provided for by the Vendor Contract and by applicable law. In the event the Contractor is in violation of this Section shall be subject to debarment from City contracting activities in accordance with Seattle Municipal Code Section 20.70 (Debarment).

## **23 Assignment and Subcontracting**

Contractor shall not assign or subcontract any of its obligations under this Contract without Seattle's written consent, which may be granted or withheld in Seattle's sole discretion. Any subcontract made by Contractor shall incorporate by reference all the terms of this Contract except Equal Benefit provisions. Contractor shall ensure that all subcontractors comply with the obligations and requirements of the subcontract, except for Equal Benefit provisions. Seattle's consent to any assignment or subcontract shall not release the Contractor from liability under this Contract, or from any obligation to be performed under this Contract, whether occurring before or after such consent, assignment, or subcontract.

## **24 Key Persons and Subcontractors**

Contractor shall not transfer, reassign or replace any individual or subcontractor that is determined to be essential or that has been agreed upon in the Contractor's Subcontracting (Outreach) Plan, without express written consent of Seattle. If during the term of this Contract, any such individual leaves the Contractor's employment or any named subcontract is terminated for any reason, Contractor shall notify Seattle and seek approval for reassignment or replacement with an alternative individual or subcontractor. Upon Seattle's request, the Contractor shall present to Seattle, one or more subcontractors or individual(s) with greater or equal qualifications as a replacement. Continued achievement of the Subcontracting (Outreach) Plan that was incorporated into this Contract by reference, if any, and the associated subcontract awards, aspirational goals and efforts, will be one of the considerations in approval of such changes. Seattle's approval or disapproval shall not be construed to release the Contractor from its obligations under this Contract.

## **25 Equal Employment Opportunity**

All Contractors must comply with federal Executive Order 11246, "Equal Employment Opportunity," as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, and Department of Labor.

## **26 Civil Rights Act Title VI**

The Contractor must comply with the provisions of the Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.). The law provides that no person in the United States shall, on the grounds of race, color or national origin, be denied the benefits of, be excluded from participation in, or be subjected to, discrimination under any program or activity receiving federal financial assistance.

## **27 Equal Benefits**

Compliance with SMC Ch. 20.45: The Contractor shall comply with the requirements of SMC Ch. 20.45 and Equal Benefits Program Rules implementing such requirements, under which the Contractor is obligated to provide the same or equivalent benefits ("equal benefits") to its employees with domestic partners as the Contractor provides to its employees with spouses. At Seattle's request, the Contractor shall provide complete information and verification of the Contractor's compliance with SMC Ch. 20.45. Failure to cooperate with such a request shall constitute a material breach of this Contract. (For further information about SMC Ch. 20.45 and the Equal Benefits Program Rules call (206) 684-0430 or review information at <http://cityofseattle.net/contract/equalbenefits/>.)

Remedies for Violations of SMC Ch. 20.45: Any violation of this Section shall be a material breach of Contract for which the City may:

- A. Require Contractor to pay actual damages for each day that the Contractor is in violation of SMC Ch. 20.45 during the term of the Contract; or
- B. Terminate the Contract; or
- C. Disqualify Contractor from bidding on or being awarded a City contract for a period of up to five (5) years; or
- D. Impose such other remedies as specifically provided for in SMC Ch. 20.45 and the Equal Benefits Program Rules promulgated thereunder.

## **28 General Legal Requirements**

### **28.1 General Requirement**

Vendor, at no expense to The City, shall comply with all applicable laws of the United States and the State of Washington; the Charter and ordinances of The City; and rules, regulations, orders, and directives of their administrative agencies and the officers thereof. Without limiting the generality of this paragraph, the Vendor shall specifically comply with the following requirements of this section.

### **28.2 Licenses and Similar Authorizations**

Vendor, at no expense to The City, shall secure and maintain in full force and effect during the term of this Contract all required licenses, permits, and similar legal authorizations, and comply with all requirements thereof.

### **28.3 Performance Standard**

All duties by Vendor or designees shall be performed in a manner consistent with accepted practices for other similar Work.

## **29 Changes to City Programs**

### **29.1 Acknowledgements**

The parties acknowledge that the City programs supported by this Contract may be subject to continuous change during the term of this Contract. Except as provided in this Section, Vendor has provided for or will provide for adequate resources, to reasonably accommodate such changes. Should Vendor be unable to accommodate those changes, the City has the right to terminate the contract.

The parties also acknowledge that the Vendor was selected, in part, because of its expertise, experience, and knowledge concerning applicable federal and/or State laws, regulations, policies, or guidelines that affect the performance of the Services and System.

### **29.2 Changes in Applicable Federal or State Legislative Enactments**

In keeping with the City reliance on the Vendor's knowledge, experience and expertise, the Vendor will be responsible for identifying changes in applicable federal or State legislative enactments and regulations and the impact of such changes on the performance of the Services or Deliverables or the City's use of the Services or Deliverables. The Vendor must timely notify the City of such changes and must work with the City to identify the impact of such changes on how the City uses the Services or Deliverables.

### **29.3 Noncompliance**

The Vendor will be responsible for any fines, penalties, or disallowances imposed on the City or Vendor arising from any noncompliance with the laws, regulations, policies, and guidelines that affect the Services or Deliverables that are to be provided or that have been provided by the Vendor, its Subcontractors or agents.

## **30 Indemnification**

Vendor shall defend, indemnify, and save City harmless from and against all claims, including reasonable attorneys' fees resulting from such claims, by third parties for any or all injuries to persons, or damage to

property, or any other claim of any nature arising from intentional, willful, or negligent acts or omissions of Vendor, its officers, employees, or agents, or Subcontractors, their officers, employees or agents, excepting a claim arising from the public's interpretation of language or images contained in the Code, as published in print or electronically. Vendor's obligation to defend, indemnify, and save City harmless shall not be eliminated or reduced by any alleged concurrent City negligence.

## **31 Insurance**

Except as specified otherwise, Vendor shall obtain at time of award and maintain in force, minimum coverages and limits of liability of insurance specified below. If the Vendor fails to obtain or maintain these coverages, the City may withdraw its intent to award. All costs are borne by the Vendor.

### **31.1 MINIMUM COVERAGES AND LIMITS OF LIABILITY**

Vendor shall at all times during the term of this Contract maintain continuously, at its own expense, minimum insurance coverages and limits of liability as specified below:

#### **31.2 Commercial General Liability (CGL) insurance, including:**

- A. Premises/Operations
- B. Products/Completed Operations
- C. Personal/Advertising Injury
- D. Contractual
- E. Independent Contractors
- F. Stop Gap/Employers Liability with minimum limits of liability of \$1,000,000 each occurrence combined single limit bodily injury and property damage ("CSL"), except:
  - 1 \$1,000,000 Personal/Advertising Injury
  - 2 \$1,000,000 each accident/disease/employee Stop Gap/Employer's Liability
- G. Automobile Liability insurance, including coverage for owned, non-owned, leased or hired vehicles with a minimum limit of liability of \$1,000,000 CSL.
- H. Worker's Compensation for industrial injury to Vendor's employees in accordance with the provisions of Title 51 of the Revised Code of Washington.
- I. Professional Liability Errors and Omissions, with coverage of not less than \$1 million per occurrence/\$1 million general aggregate.

#### **31.3 City as Additional Insured**

The City of Seattle shall be included as an additional insured under CGL and Automobile Liability insurance for primary and non-contributory limits of liability.

#### **31.4 No Limitation of Liability**

The limits of liability specified herein in subparagraph 27.1 are minimum limits of liability only and shall not be deemed to limit the liability of Vendor or any Vendor insurer except as respects the stated limit of liability of each policy. Where required to be an additional insured, the City of Seattle shall be so for the full limits of liability maintained by Vendor, whether such limits are primary, excess, contingent or otherwise.

#### **31.5 Minimum Security Requirement**

All insurers must be rated A- VII or higher in the current A.M. Best's Key Rating Guide and licensed to do business in the State of Washington unless coverage is issued as surplus lines by a Washington Surplus lines broker.

#### **31.6 Self-Insurance**

Any self-insured retention not fronted by an insurer must be disclosed. Any defense costs or claim payments falling within a self-insured retention shall be the responsibility of Vendor.

### **31.7 Evidence of Coverage**

Prior to performance of any scope of work under this Contract, Vendor shall provide certification of insurance acceptable to the City evidencing the minimum coverages and limits of liability and other requirements specified herein. Such certification must include a copy of the policy provision documenting that the City of Seattle is an additional insured for commercial general liability insurance on a primary and non-contributory basis. Certification should be issued to The City of Seattle, Risk Management Division, Seattle, WA and shall be delivered in electronic form either as an email attachment to riskmanagement@seattle.gov or faxed to (206) 470-1270.

### **32 Review of Vendor Records**

Vendor and its Subcontractors shall maintain books, records, documents and other evidence relating to this Contract, including but not limited to protection and use of City's Confidential Information, and accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature invoiced in the performance of this Contract. Vendor shall retain all such records for six (6) years after the expiration or termination of this Contract. Records involving matters in litigation related to this Contract shall be kept for six (6) years from the date of expiration or termination of this Contract whichever is later.

All such records shall be subject at reasonable times and upon prior notice to examination, inspection, copying or audit by personnel so authorized by the City's Contract Administration and/or the Office of the Auditor and federal officials so authorized by law, rule, regulation or contract, when applicable, at no additional cost to the City. During this Contract's term, Vendor shall provide access to these items at a mutually agreeable time and place. Vendor shall be responsible for any audit exceptions or disallowed costs incurred by Vendor or any of its Subcontractors. Vendor shall incorporate in its subcontracts this section's records retention and review requirements.

It is agreed that books, records, documents and other evidence of accounting procedures and practices related to Vendor's cost structure, including overhead, general and administrative expenses, and profit factors shall be excluded from City's review unless the cost or any material issue under this Contract is calculated or derived from these factors.

### **33 Independent Contractor**

The relationship of Vendor to The City by reason of this Contract shall be that of an independent Vendor. This Contract does not authorize Vendor to act as the agent or legal representative of the City for any purpose whatsoever. Vendor is not granted any express or implied right or authority to assume or create any obligation or responsibility on behalf of or in the name of The City or to bind The City in any manner or thing whatsoever.

It is the intention and understanding of the Parties that Vendor shall be an independent Vendor and that the City shall be neither liable for nor obligated to pay sick leave, vacation pay or any other benefit of employment, or to pay any social security or other tax that may arise as an incident of employment. The Vendor shall pay all income and other taxes as due. Industrial or other insurance that is purchased for the benefit of the Vendor shall not be deemed to convert this Contract to any employment contract. It is recognized that Vendor may or will be performing professional Work during the term for other parties and that The City is not the exclusive user of the Work that Vendor will provide.

### **34 No Conflict of Interest**

Contractor confirms that Contractor does not have a business interest or a close family relationship with any City officer or employee who was, is, or will be involved in the Contractor selection, negotiation, drafting, signing, administration, or evaluating the Contractor's performance.

### **35 No Gifts or Gratuities**

Contractor shall not directly or indirectly offer anything of value (such as retainers, loans, entertainment, favors, gifts, tickets, trips, favors, bonuses, donations, special discounts, work or meals) to any City employee, volunteer or official, that is intended, or may appear to a reasonable person to be intended, to obtain or give special consideration to the Vendor. Promotional items worth less than \$25 may be

distributed by the vendor to City employees if the Vendor uses the items as routine and standard promotions for business. Any violation of this provision may result in termination of this Contract. Nothing in this Contract prohibits donations to campaigns for election to City office, so long as the donation is disclosed as required by the election campaign disclosure laws of the City and of the State.

### **36 Current and Former City Employees, Officers, and Volunteers**

Throughout the life of the contract, Contractor shall provide written notice to City Purchasing and the City Project Manager of any current or former City employees, officials or volunteers, that are working or assisting on solicitation of City business or on completion of the awarded contract. The Vendor must be aware of the City Ethics Code, Seattle Municipal Code 4.16 and advise Contractor workers as applicable.

### **37 Contract Workers with 1,000 Hours**

Throughout the life of the Contract, Contractor shall provide written notice to City Purchasing and the City Project Manager of any contract worker that shall perform more than 1,000 hours of contract work for the City within a rolling 12-month period. Such hours include those that the contract worker performs for the Contract, and any other hours that the worker performs for the City under any other contract. Such workers are subject to the requirements of the City Ethics Code, Seattle Municipal Code 4.16. The Contractor shall advise their Contract workers as applicable.

### **38 Errors & Omissions: Correction**

Vendor shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, Statement of Work, and other services furnished by or on the behalf of the Vendor under this Contract. The Vendor, without additional compensation, shall correct or revise any errors or omissions in the designs, drawings, Statement of Work, and/or other Vendor services immediately upon notification by The City. The obligation provided for in this section with respect to any acts or omissions during the term of this Contract shall survive any termination or expiration of this Contract and shall be in addition to all other obligations and liabilities of the Vendor.

### **39 Data Storage and Retention**

Vendor agrees to store and retain City data in accordance with City record retention requirements for the type of data being stored, or to work with the City to develop a plan to meet those requirements through alternate means.

### **40 Confidentiality**

#### **40.1 Vendor's Confidential Information**

- 40.1.1 The Vendor understands that any records (including but not limited to bid or proposal submittals, the Contract, and any other contract materials) it submits to the City, or that are used by the City even if the Contractor possesses the records, are public records under Washington State law, RCW Chapter 42.56. Public records must be promptly disclosed upon request unless a statute exempts them from disclosure. The Vendor also understands that even if part of a record is exempt from disclosure, the rest of that record generally must be disclosed.
- 40.1.2 If the City receives a public disclosure request made pursuant to RCW 42.56, the City will not assert an exemption from disclosure on behalf of the Contractor. For materials that the Vendor has properly marked, the City may notify the Contractor of the request and postpone disclosure for ten business days to allow the Contractor to file a lawsuit seeking an injunction preventing the release of documents pursuant to RCW 42.56.540. Any notification is provided as a courtesy and is not an obligation on behalf of the City. Unless the Contractor obtains and serves an injunction upon the City before the close of business on the tenth business day after the date of the notification, the City may release the documents. It is the Contractor's discretionary decision whether to file the lawsuit.
- 40.1.3 In order to request that material not be disclosed until receipt of notification of a public disclosure request, you must identify the specific materials and citations very clearly on the City Vendor Questionnaire that you believe are exempt from disclosure. The City will not

withhold material for notification if the Contractor simply marked confidential on the document header, footer, stamped on all pages, or offered a generic statement that the entire document is protected. Only material specifically listed and properly cited on the Vendor Questionnaire will be temporarily withheld until the City provides notification of a public disclosure request.

- 40.1.4 If the Contractor does not obtain and serve an injunction upon the City within 10 business days of the date of the City's notification of the request, the Contractor is deemed to have authorized releasing the record.
- 40.1.5 If the Contractor does not submit a request within the Vendor Questionnaire, the Contractor is deemed to have authorized releasing any and all information submitted to the City.
- 40.1.6 Notwithstanding the above, the Contractor must not take any action that would affect (a) the City's ability to use goods and services provided under this Contract or (b) the Contractor's obligations under this Contract.
- 40.1.7 The Contractor will fully cooperate with the City in identifying and assembling records in case of any public disclosure request.

#### **40.2 City's Confidential Information**

- 40.2.1 The following are hereby designated to be the City's Confidential Information: the City's Data (including , but not limited to records, files, forms, documents, and other data regardless of format), meta-Data either described or embedded in the Data and City documents, City employee information including but not limited to names, address, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records, and such other Confidential information as may be designated by the City to the Vendor.
- 40.2.2 Except for disclosure of the City's Confidential Information to the City in order to comply with RCW 42.56, the Vendor shall maintain all Confidential Information of the City in strict confidence, at least to the same extent as it protects the confidentiality of its own confidential information of like kind, but in no event with less than reasonable care.
- 40.2.3 Vendor shall not at any time use, publish, sell, reproduce or disclose any Confidential Information, except for disclosure to the City in order to comply with RCW 42.56 and except to authorized officers, employees, contractors and agents requiring such information under confidentiality requirements in accordance with the non-disclosure agreement (if appropriate). The use or disclosure by Vendor of any City information not necessary for, or directly connected with, the performance of Vendor's responsibility with respect to Services is prohibited except upon the express written consent of the City.
- 40.2.4 The Vendor shall take all steps necessary, including without limitation oral and written instructions to all authorized officers, employees, contractors and agents to safeguard the City's Confidential Information in accordance with applicable federal and State law and regulation and this Contract against unauthorized disclosure, reproduction, publication or use, and to satisfy their obligations under this Contract.
- 40.2.5 The Vendor, and its officers, employees, contractors and agents shall at all times comply with all security standards, practices, and procedures which are equal to or exceed those of the City with respect to information and materials which come into the Vendor's possession
- 40.2.6 The Vendor shall not move the City's confidential information to another geographical location without the City's written permission.
- 40.2.7 The City reserves the right to monitor, audit or investigate Vendor's use of the City's Confidential Information collected, used, or acquired by Vendor under this Contract.
- 40.2.8 The Vendor shall immediately report to the City any and all unauthorized disclosures or uses of the City Confidential Information of which it or its officers, employees, employees, contractors and agents is aware or has knowledge. The Vendor acknowledges that any publication or disclosure of City Confidential Information to others may cause immediate and irreparable harm to the City. If the Vendor should publish or disclose such Confidential

Information to others without authorization, the City shall immediately be entitled to injunctive relief or any other remedies to which it is entitled under law or equity without requiring a cure period.

- 40.2.9 The use or disclosure by Contractor of any City information not necessary for, nor directly connected with, the performance of Contractor's responsibility with respect to Services is prohibited, except upon the express written consent of the City

## **41 Publicity**

No news release, advertisement, promotional material, tour, or demonstration related to the City's purchase or use of the Vendor's product or any work performed pursuant to this Contract shall be produced, distributed or take place without the prior, specific approval of the City's Project Manager or his/her designee.

## **42 Interlocal Agreement Act**

RCW Chapter 39.34 allows cooperative purchasing between public agencies, non profits and other political subdivisions. Public agencies that file an Intergovernmental Cooperative Purchasing Agreement with the City of Seattle may purchase from Contracts established by the City. The seller agrees to sell additional items at the bid prices, terms and conditions, to other eligible governmental agencies that have such agreements with the City. The City of Seattle accepts no responsibility for the payment of the purchase price by other governmental agencies. Should the Vendor require additional pricing for such purchases, the Vendor is to name such additional pricing upon Offer to the City.

## **43 Background Checks**

The City may require background/criminal checks during the term of the Contract for essential City purposes. The City does not intend to request background checks/verifications unless essential in the opinion of the City. For example: For hosted systems, and similar services, due to the confidential nature of the information and materials which will be accessible to Vendor, the City, may also conduct a reference check, background/criminal check on Vendor Staff (which may include officers, employees, subcontractors and agents).to be used to provide the Services. The City reserves the right in its sole discretion to reject any proposed Staff as a result of information produced by such reference checks, background checks, or additional sources of information. Note that, in particular, Seattle City Light has regulatory requirements promulgated by organizations with jurisdiction over Seattle City Light, which require any contract worker that has access to certain locations/systems/data ("SCL Designated Access") to undergo a background/criminal check before that worker can have authorized cyber or authorized unescorted physical access to those locations/systems/data. The requirements apply to all Vendor workers and mandate an appropriate Personnel Risk Assessment and security awareness training as directed by Seattle City Light.

This section covers background/criminal checks for Vendor workers before they work on certain City tasks, systems and/or locations, to include the discovery and verification of criminal convictions and civil findings. The City may, at its option, determine that only a criminal history check will be performed. This section also covers the requirements if cyber security training is required.

If the City notifies the Vendor to undergo background/criminal checks or cyber security training for vendor workers, the following shall apply.

### **43.1 General Requirements**

- 43.1.1 The City shall alert the Vendor that the contract task is "High Security" at the time the work request is made to the Vendor or as soon as practical thereafter.
- 43.1.2 Should the Vendor believe it cannot meet these obligations by the scheduled work start dates, the Vendor may seek mutual agreement to a revised start date, or if none is reached, decline the work.
- 43.1.3 The City may require that any Vendor worker receiving SCL Designated Access undergo a background/criminal history check and receive appropriate cyber security training. The Seattle Police Department (SPD) shall conduct all criminal history checks for Seattle Police

Department services.

- 43.1.4 The Vendor shall provide a list of names, specified identification information (social security number, birth date and address) and a release signed by the worker for the City to perform a background/criminal history check. Vendor must provide the information to the City before any worker will receive be cleared for work. The list must be submitted at a date mutually agreed upon.
- 43.1.5 The City will conduct a background check using either the Seattle Police Department or any agency with whom the City selects. The City will review the resultant background/criminal history check results. The City shall notify the Vendor of acceptance or rejection of personnel in a timely manner. The City will perform the background check at City cost.
- 43.1.6 For workers rejected by the City, the Vendor will submit to the City alternative names for background checks. Vendor will submit those names promptly, as mutually agreed upon between the Vendor and the City.
- 43.1.7 The Vendor has responsibility to obtain City approval for a sufficient quantity of personnel to provide adequate coverage during the contract term. The City may allow the Vendor to submit a greater number of individuals for background checks and approval than is necessary to accomplish the contract tasks, in order to assure adequate coverage for the contract work (i.e. receive authorization for back-up crew members in the event of an absence by a scheduled crew member).
- 43.1.8 Notwithstanding the schedules and responsibilities herein, the City and the Vendor may need to consider individuals for emergency replacement in the event a worker cannot perform or is terminated. In such event, the City may allow the Vendor to submit additional names in anticipation of such future need.
- 43.1.9 The City shall not unreasonably withhold approval of such individuals, although the City is not under the obligation to accept individuals that would otherwise be rejected as not suitable.
- 43.1.10 The Background/Criminal check must be renewed every four years for vendor workers. If the worker was required by the City to undergo a background check and/or cyber security training, the Vendor must likewise notify the City when that worker approaches four years. This notice to the City must be no less than sixty (60) days before the end of the four-year period. At that time, to comply with appropriate regulatory requirements, the City may require another background check/criminal.
- 43.1.11 The Vendor shall provide to the City, no less than eight (8) hours from when the status change becomes effective, notice of any Vendor worker who is: (i) reassigned or no longer requires Designated Access to perform the contract tasks, or (ii) terminated by the Vendor for any reason. In no case shall such notice be greater than eight (8) hours.
- 43.1.12 The Vendor shall immediately notify the City Project Manager to report if a worker has a change in criminal history or background status. The City may initiate a new background/criminal check for this or other cause during the term of the worker's access to the City.
- 43.1.13 For furniture moves, on the day(s) of service, at the job site, the Crew Chief is to submit the names of those present at the job site to the City Building Service Manager. The City Project Manager is responsible for rejecting any individuals that have not been approved by the City. Should such a rejection result in a failure by the Vendor to meet the Vendor obligations for a crew of sufficient size to complete the move, the Vendor assumes all resulting liabilities and damages in accordance with the contract and all terms and conditions.

#### **43.2 Cyber Security Training Requirements**

The City may require that any Vendor worker receive appropriate cyber security training. Such workers must receive cyber security training once each year they work under the contract.

#### **43.3 Routine Elements of a Background/Criminal Report**

Routine background/criminal history check reports shall include identity verification (e.g. social security number verification) and a search of records from any federal, state or county court in the United States, an international records search, and records of all convictions or releases from prison within the last ten (10) years.

#### **43.4 Non-Routine Elements of a Background/Criminal Report**

- 43.4.1 The City may search for dependency actions.
- 43.4.2 The City may search for information on protection proceedings related to sex offender, assault, abuse, or exploitation of a minor, developmentally disabled person, or vulnerable adult, or domestic relations proceedings.
- 43.4.3 The City may search for additional information detail, as determined by the City, above and beyond the scope of a routine background/criminal history check as defined in Section C, General requirements.
- 43.4.4 If the required access for the worker is subject to NERC, the City will require all workers to undergo annual Cyber Security Training offered by Seattle City Light. The workers will be paid for the time they spend in such training. If this requirement applies, the City will require the Vendor to submit a list of such workers and their status of Cyber Training annually upon contract anniversary.

#### **43.5 Security Access Requirements**

##### 43.5.1 Vendor Use of Premises

- 43.5.1.1 Vendor workers shall have only limited use of the premises for work, storage, access, and equipment.
- 43.5.1.2 Material/equipment staging areas will be limited to floors and areas designated within the Scope of Work. Maintain clear access to site and building entrances.
- 43.5.1.3 Driveway use will be limited to loading and unloading only.
- 43.5.1.4 For furniture moves, the vendor shall be granted the use of up to two parking spaces in the Seattle Municipal Tower parking structure to be paid by the vendor. Arrangements for the use of these two spaces must be made through the Building Management. Other parking spaces in the structure are available at the regular rates. Special parking arrangements may be made through IMPARK Inc., the garage operator at 628-9042.
- 43.5.1.5 Restrooms may have restricted access, as appropriate to the Scope of Work.
- 43.5.1.6 All workers who must provide services or delivery at a SCL facility must obtain prior permission from SCL and make arrangements for an SCL escort while on the facility site.

##### 43.5.2 Related Requirements and Documents

- 43.5.2.1 All Vendor employees at the job site shall wear identification that is prominent and clearly marked, which clearly identifies the individual as an employee with the building services company.
- 43.5.2.2 When appropriate, Vendors will be issued a Departmental Identification/Access Badge, for the designated contract period, giving them access to the facility for which they require access. These Identification/Access Badges will be returned to the Department at the completion of the contract.

##### 43.5.3 Work Area

- 43.5.3.1 Confine operations and storage to the designated work area. Maintain the work area and building clean and in an orderly manner.
- 43.5.3.2 Safety Procedures: Implement safety procedures as required by the Contract Documents, local codes and laws to ensure the safety of all site personnel and

visitors to the site.

- 43.5.4 Temporary Controls – Vendor shall be responsible for proper supervision of personnel to prevent damage, loss or other unauthorized damage as a result of the work performed by the Contractor.

## **44 Dispute Resolution**

The parties shall endeavor to resolve any dispute or misunderstanding that may arise under this Contract concerning Vendor's performance or City's obligations between the Vendor's representative and the City's representative. Either party may discontinue such discussions and may then pursue other means to resolve such disputes, or may by mutual agreement pursue other dispute alternatives such as alternate dispute resolution processes. Nothing in this dispute process shall in any way mitigate the rights, if any, of either party to terminate the Contract for cause or convenience.

The City and the Vendor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute. If the subject of the dispute is the amount due and payable by the City for Services being provided by Vendor, Vendor shall continue providing Services pending resolution of the dispute provided City pays Vendor the amount the City, in good faith, believes is due and payable

## **45 Termination**

### **45.1 For Cause**

The City may terminate this Contract if the Vendor is in material breach of any of the terms of this Contract, and such breach has not been corrected to the City's reasonable satisfaction in a timely manner.

### **45.2 For City's Convenience**

The City may terminate this Contract at any time, without cause and for any reason including the City's convenience, upon written notice to the Vendor.

### **45.3 Nonappropriation of Funds**

The City may terminate this Contract at any time without notice due to nonappropriation of funds, whether such funds are local, state or federal grants, and no such notice shall be required notwithstanding any notice requirements that may be agreed upon for other causes of termination.

### **45.4 Acts of Insolvency**

The City may terminate this Contract by written notice to Vendor if the Vendor becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, or is wound up or liquidated, voluntarily or otherwise.

### **45.5 Termination for Gratuities and/or Conflict of Interest**

The City may terminate this Contract by written notice to Vendor if The City finds that a conflict of interest exists in violation of the city Ethics Code, or that any gratuity in the form of entertainment, a gift, or otherwise, was offered to or given by the Vendor or any agent therefore to any City official, officer or employee.

### **45.6 Notice**

The City is not required to provide advance notice of termination. Notwithstanding, the City may issue a termination notice with an effective date later than the termination notice itself. In such case, the Vendor shall continue to provide products and services as required by the City until the effective date provided in the termination notice.

### **45.7 Actions Upon Termination**

In the event of termination not the fault of the Vendor, the following shall apply:

- 45.7.1 Upon termination, the Vendor shall wind down and cease its services as quickly and

efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on the City from such winding down and cessation of services.

- 45.7.2 Vendor shall be paid for all products and services that have been ordered and accepted prior to the effective termination date or ordered before the effective termination date and ultimately accepted by the City, together with any reimbursable expenses then due.
- 45.7.3 For System development projects, Vendor shall be paid for progress performed that has been accepted by the City on or prior to the effective termination date, but in no event shall such compensation exceed the maximum compensation to be paid under the Contract.
- 45.7.4 Vendor agrees that such payment shall fully and adequately compensate Vendor and all subs for all profits, costs, expenses, losses, liabilities, damages, taxes, and charges of any kind whatsoever (whether foreseen or unforeseen) attributable to the termination of this Contract.
- 45.7.5 Vendor shall provide to the City all City-owned data, Property and Deliverable in the possession of either the Vendor within (X) business days, in the format originally used by the City prior to conversion and upload to the vendor, or in a format mutually agreed to by both the vendor and the City. Where applicable, the Vendor shall provide the most current design documents, contract documents, writings and other product it has completed to the date of termination, along with copies of all project-related correspondence and similar items. The City shall have the same rights to use these materials as if termination had not occurred.  
In the event this Contract expires or is terminated for any reason, the City shall retain its rights in all Products, services and system progress that is in transit or delivered prior to the effective termination date.

#### **45.8 Transition Support**

Vendor shall provide for a reasonable, mutually agreed period of time after the expiration or termination of this Contract, all reasonable transition assistance requested by the City, to allow for the expired or terminated portion of the services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Services to the City or its designees. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of this Contract, except for those terms or conditions that do not reasonably apply to such transition assistance. The City shall pay Vendor for any resources utilized in performing such transition assistance at the rates in Attachment 4, Statement of Work.

#### **45.9 Actions for Non-Funding**

- 45.9.1 The parties acknowledge and agree that this Contract is dependent upon the availability of City funding. If funding to make payments in accordance with the provisions of this Contract is not available for this Contract, or is not allocated or allotted to the City for this Contract for periodic payment in the current or any future fiscal period, then the obligations of the City to make payments after the effective date of such non-allocation or non-funding will cease and terminate.
- 45.9.2 If funding to make payments in accordance with the provisions of this Contract is delayed or is reduced from the City for this Contract, or is not allocated or allotted in full to the City for this Contract for periodic payment in the current or any future fiscal period, then the obligations of the City to make payments will be delayed or be reduced accordingly or the City shall have the right to terminate this Contract as provided in Section 42.c, Non-appropriation of Funds.
- 45.9.3 If such funding is reduced, the City in its sole discretion shall determine which aspects, if any, of this Contract shall proceed and which Services shall be performed, with Contractor's Charges for such Services and Purchase Prices for associated Deliverables determined in accordance with those in the Statement of Work. In these situations, the City will pay the Vendor for Services and Deliverables and certain of its costs in accordance with the terms of Section 42.g. Any obligation to pay by the City will not extend beyond the end of the City's then-current funding period.

### **46 Force Majeure– Suspension and Termination**

This section applies in the event that either party is unable to perform the obligations of this contract because of a Force Majeure event as defined herein, to the extent that the Contract obligations must be suspended in full. A Force Majeure event is an event that prohibits performance and is beyond the control of the party. Such events may include natural or man-made disasters, or an action or decree of a superior governmental body, which prevents performance.

Force Majeure under this Section shall only apply in the event that performance is rendered not possible by either party or its agents. Should it be possible to provide partial performance that is acceptable to the City under Section #2 (Emergencies or Disasters), Section #2 below shall instead be in force.

Should either party suffer from a Force Majeure event and is unable to provide performance, such party shall give notice to the remaining party as soon as practical and shall do everything possible to resume performance.

Upon receipt of such notice, the party shall be excused from such performance as is affected by the Force Majeure Event for the period of such Event. If such Event affects the delivery date or warranty provisions of this Contract, such date or warranty period shall automatically be extended for a period equal to the duration of such Event.

#### **47 Major Emergencies or Disasters**

The City may undergo an emergency or disaster that may require the Vendor to either increase or decrease quantities from normal deliveries, or that may disrupt the Vendor's ability to provide normal performance. Such events may include, but are not limited to, a storm, high wind, earthquake, flood, hazardous material release, transportation mishap, loss of any utility service, fire, terrorist activity or any combination of the above. In such events, the following shall apply.

- A. The City shall notify the Vendor that the City is experiencing an emergency or disaster, and will request emergency and priority services from the Vendor.
- B. Upon such notice by the City, the Vendor shall provide to the City goods and/or services in the quantities and schedule specified by the City, following the conditions named in this Section.
- C. The City of Seattle shall be the customer of first priority for the Vendor. The Vendor shall provide its best and priority efforts to provide the requested goods and/or services to the City of The City in as complete and timely manner as possible. Such efforts by the Vendor are not to be diminished as a result of Vendor providing service to other customers.
- D. If the Vendor is unable to respond in the time and/or quantities requested by the City, the Vendor shall make delivery as soon as practical. The Vendor shall immediately assist the City to the extent reasonable, to gain access to such goods and/or services. This may include:
- E. Coordinating with other distributors or subsidiaries beyond those in the local region to fulfill order requests;
- F. Offering the City substitutions provided the Vendor obtains prior approval from the City for such substitution.
- G. The Vendor shall charge the City the price determined in this Contract for the goods and services provided, and if no price has been determined, it shall charge the City a price that is normally charged for such goods and/or services (such as listed prices for items in stock). However, in the event that the City's request results in the Vendor incurring unavoidable additional costs and causes the Vendor to increase prices in order to obtain a fair rate of return, the Vendor shall charge the City a price not to exceed the cost/profit formula found in this Contract.

#### **48 Debarment**

In accordance with SMC Ch. 20.70, the Director of Finance and Administrative Services or designee may debar a Vendor from entering into a Contract with the City or from acting as a sub on any Contract with the City for up to five years after determining that any of the following reasons exist:

- A. Vendor has received overall performance evaluations of deficient, inadequate, or substandard performance on three or more City Contracts.

- B. Vendor failed to comply with City ordinances or Contract terms, including but not limited to, ordinance or Contract terms relating to small business utilization, discrimination, prevailing wage requirements, equal benefits, or apprentice utilization.
- C. Vendor abandoned, surrendered, or failed to complete or to perform work on or in connection with a City Contract.
- D. Vendor failed to comply with Contract provisions, including but not limited to quality of workmanship, timeliness of performance, and safety standards.
- E. Vendor submitted false or intentionally misleading documents, reports, invoices, or other statements to the City in connection with a Contract.
- F. Vendor colluded with another Vendor to restrain competition.
- G. Vendor committed fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Contract for the City or any other government entity.
- H. Vendor failed to cooperate in a City debarment investigation.
- I. Vendor failed to comply with SMC 14.04, SMC Ch. 14.10, SMC Ch. 20.42, or SMC Ch. 20.45, or other local, State, or federal non-discrimination laws.

The Director may issue an Order of Debarment following the procedures specified in SMC 20.70.050. The rights and remedies of the City under these provisions are in addition to any other rights and remedies provided by law or under the Contract.

#### **49 Recycle Products Requirements**

As required by Seattle Municipal Code 20.60, whenever practicable, Vendor shall use reusable products, recyclable products and recycled-content products including recycled content paper on all documents submitted to the City.

Vendors are to duplex all materials that are prepared for the City under this Contract, whether such materials are printed or copied, except when impracticable to do so due to the nature of the product being produced. Vendors are to use 100% post consumer recycled content, chlorine-free paper in such products that are produced for the City, whenever practicable, and to use other paper-saving and recycling measures in business they conduct with and for the City. This directive is executed under the Mayor's Executive Order, issued February 13, 2005.

#### **50 Section Headings, and Sub-Headings, Incorporated Documents and Order of Precedence**

The headings used herein are inserted for convenience only and do not define or limit the contents.

No verbal agreement or conversation between any officer, agent, associate or employee of The City and any officer, agency, employee or associate of the Vendor prior to the execution of this Contract shall affect or modify any of the terms or obligations contained in this Contract.

The following documents are incorporated by reference into this Contract. Where there is conflict or gap among these documents, the controlling document will be resolved in the following order of precedence (first listed being the precedent):

- A. Applicable federal, state and local statutes, laws and regulations;
- B. This Contract
- C. All Attachments to this Contract including Statement of Work, Service Level Agreement, Confidentiality Agreement
- D. Work Orders
- E. RFP issued by the City
- F. Vendor Proposal Response

- G. Work Orders used, if any; and
- H. Vendor or manufacturer publications or written materials Vendor made available to City and used to effect the sale.

## **51 Entire Agreement**

This Contract sets forth the entire agreement between the parties with respect to the subject matter hereof. No changes to provisions, price, quality, or Statement of Work of this Contract will be effective without the written consent of both parties.

## **52 Authority for Modifications and Amendments**

The Parties hereto reserve the right to make amendments or modifications to this Contract by written agreement, signed by an authorized representative of each party. No modification, amendment, alteration, or waiver of any section or condition of this Contract shall be effective or binding unless it is in writing and signed by the City RFP Coordinator and Vendor Contracting Officer. Only the City RFP Coordinator shall have the express, implied, or apparent authority to alter, amend, modify, add, or waive any section or condition of this Contract on behalf of the City.

## **53 Severability**

If any term or provision of this Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Contract shall not be affected thereby, and each term and provision of this Contract shall be valid and enforceable to the fullest extent permitted by law.

## **54 Miscellaneous Provisions**

### **54.1 Binding Contract**

This Contract shall not be binding until signed by both parties. The provisions, covenants and conditions in this Contract shall bind the parties, their legal heirs, representatives, successors, and assigns.

### **54.2 Applicable Law/Venue**

This Contract shall be construed and interpreted in accordance with the laws of the State of Washington. The venue of any action brought hereunder shall be in the Superior Court for King County.

### **54.3 Modifications**

Only the City's Purchasing Buyer shall have the authority to alter, amend, modify, or waive any clause or condition of this Contract on behalf of the City. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this Contract is not effective or binding until made in writing and signed by the purchasing agent(s) authorized by the City Project Director or authorized delegate in writing as aforesaid and Contractor, unless otherwise provided herein.

### **54.4 Remedies Cumulative**

Rights under this Contract are cumulative and nonexclusive of any other remedy at law or in equity.

### **54.5 Waiver**

No term or condition or breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed. Any waiver of the breach of any term or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition. Neither acceptance by The City of Vendor performance nor payment to Vendor for any portion of Work shall constitute a waiver by The City of the breach or default of any term or condition unless expressly agreed to by The City in writing.

### **54.6 Negotiated Contract**

The parties acknowledge that this is a negotiated Contract, that they have had the opportunity to have this Contract reviewed by their respective legal counsel, and that the terms and conditions of this Contract are not to be construed against any party on the basis of such party's draftsmanship thereof.

### **54.7 Attorneys' Fees**



Attachment A

Seattle, WA pricing with Municode

Official Date of approval: 3/9/15

Item  Quantity/Unit  Cost Notes

Republication	Per page	\$ 12.50	Initial reprint of Code to include new page numbers, removal of supplement numbers and maintain existing style (no style changes made). Printed copies to be provided to the City at \$127.50 per copy plus \$100 per editorial hour. (currently 46 printed copies are in circulation)  The SMC is approximately 4250 pages x \$12.50 = \$53,125. The Republication includes new pagination, removal of supplement numbers, up to 61 printed copies, updating the index. Stylistic Updates will done by ordinance and invoiced at \$12.50 per page added/amended.
State Law Reference Updates	Per hour	\$95.00	The attorney review time will be invoiced per hour. Once the review is completed the City would be invoiced \$12.50 per page to update the SMC and State Law References. We recommend adding this to the Republication so the City is not invoiced in duplicate on the per page rate.
	Per page	\$12.50	The City can elect the SMC and State Law review anytime
Legal Review	Per hour	\$95.00	City can implement the Legal review findings by adopting legislation and then updating the Code via supplement service. If the City elects to have Municode implement the findings the cost will need to be established and agreed upon by both parties or fall under the Republication costs listed.
Teleconferences	Per hour	\$95.00	The first 5 hours are no charge for a teleconference then per hour
On-Site Conference with attorney	Per hour	\$95.00	If elected and with a Municode attorney only. City to pay travel expenses and per hour fee for the conference.
Linking to Ordinances, Zoning Maps on City site	Per link	\$1.50	Municode may link each history note to the ordinance on the Seattle website. The City would provide Municode with the necessary links. City to let Municode know if any of the links change. This pertains to items hosted by the City of Seattle, not Municode.
Historical OrdBank	Per Ordinance	\$15.00	Historical OrdBank will be invoiced at \$15 per ordinance. OrdBank will allow for Municode to store all adopted legislation in our database so the material can be searched along with the SMC. OrdBank will be provided in the Annual Hosting Subscription fee of \$395 starting with the new contract. City to provide Municode with a PDF copy of each ordinance to add.
Historical CodeBank	Per version	\$500	Municode can add previous versions of the Code to CodeBank back to supplement No. 73 completed on 12/31/2003. There are approximately 65 versions between supplement No. 73 thru No. 106 that can be added if ever approved by the City.

State Statue Linking/RCW	Per link	\$2.50	
CodeBank Compare	Annual	\$350.00	The City will receive CodeBank with the annual Hosting Subscription of \$395. CodeBank Compare is an additional feature that the City can add anytime.
eNotify	Annual	\$225.00	When available this will be an annual fee
MuniPRO	Annual	\$295.00	The \$295 is per license or a site license can be purchased for an additional fee if ever elected.
MuniDOCS	Annual	TBD	Price to be agreed upon by both parties if ever elected.
JustFOIA	Initial fee	\$8,640	This will need to be done later, if ever, as agreed. Initial fee Includes year 1 of service
	Set up and training	\$2,000	Onetime fee
	Annual Subscription/Support	\$10,640	This fee is included in the Initial fee for year one. The annual fee for year 2 forward would only be \$10,640
Legistar/Granicus Integration	Initial and Annual fees	TBD	Cost to be agreed upon by both parties
Printed Supplement rate	Per page	\$12.50	When printed supplements are provided the Checklist, Instruction Sheet, Table of Contents, Index and Supplement History Table will be charged the rate listed. Printed copies must be provided at least once annually. Proofs can be provided with the printed supplements and the City will have 30 days to review and return the proofs. During the proof review no electronic updates can occur.
Supplements published by effective date rate (electronic updates)	Per Page	\$20.50	Proofs will not be provided to the City for the electronic update in order to meet the deadline. Advance delivery of the material must be provided within 14-30 days by the City prior to the effective date. The City will outline the effective dates each time legislation is provided to Municode. The rate listed will be charged upon completion of each update. The Checklist, Instruction Sheet, Table of Contents, Index and Supplement History Table pages will not be charged to the City during electronic updates they will be invoiced with each printed supplement at the printed supplement rate.
Graphics, images, tables	Each	\$10.00	
PDF/XML/WORD	Each	\$0	No Charge to the City. Data is sent via email/download
Online hosting fee	Annual	\$395	Includes annual Code on the Internet, Mobile Site, CodeBank, OrdBank & OrdLink for the SMC (Historical OrdBank is not included)
Data Storage Fees	NA	\$0	

### Administrative Code

Legal Review	Per hour	\$95.00	City can implement the Legal review findings by adopting legislation and then updating the Code via supplement service. If the City elects to have Municode implement the findings the cost will need to be established and agreed upon by both parties
Teleconferences	Per hour	\$95.00	The first 5 hours are no charge for a teleconference then per hour
On-Site Conference with attorney	Per hour	\$95.00	If elected and with a Municode attorney only. City to pay travel expenses and per hour fee for the conference.
Basic Online hosting fee	Annual	350.00	If elected
Republication	Per page	\$14.00	Includes conversion to vendor database (\$3 per page), review for errors, style, typos (\$4 per page) and Reorganization and development of numbering system (\$7 per page)
Supplements	Per page	\$18.00	Includes printing of up to 61 copies with each supplement when designated by the City. Price to be re-evaluated if subscribers enroll in updated service.
Graphics, images, tables	Each	\$10.00	

### Public Opinions

Basic Online hosting fee	Annual	\$350.00	If elected
Attorney time	Per hour	\$95.00	If an attorneys time is required in the organization of the Opinions
Republication	Per page	\$14.00	Includes conversion to vendor database (\$3 per page), review for errors, style, typos (\$4 per page) and Reorganization and development of numbering system (\$7 per page)
Supplements	Per page	\$18.00	Includes printing of up to 61 copies with each supplement when designated by the City. Price to be re-evaluated if subscribers enroll in updated service.
Graphics, images, tables	Each	\$10.00	

### Additional Copies

Complete 4 Vol. set	Each	\$250.00	Includes printed pages, binder and tabs for all 4 volumes of the SMC.
4 Vol. set pages only	Each	\$127.50	Includes printed pages only
Post stamped Binders	Each	\$57.00	Price only includes 1 binder. If a complete 4 Volume is ordered then 4 x \$57 = \$228
Full set of Tabs for SMC	Each	\$25.00	
Administrative Code	Per impression	\$0.10	
Tabs for Admin. Code	Full Set	\$25.00	

Public Opinions	Per impression	\$0.10
Tabs for Public Opinions	Full Set	\$25.00

**Land Use Reprints**

Complete full Copies, pages only	Per impression	\$ 0.10	125 copies x 1250 per impression \$0.10 = \$125 per complete copy as of 1/2015
Full set of Tabs	Each	\$25.00	
Post stamped Binders	Each	\$57.00	
Supplement service for 125 - 149 copies	per page	\$6.65	
Supplement service for 100-124 copies	per page	\$5.90	
Supplement service for 70-99 copies	per page	\$5.15	

Attachment B

City of Seattle

**Seattle Municipal Code (SMC) Codification Services**

**SERVICE LEVEL AGREEMENT (SLA) for Software as a Service Contracts**

**8/5/2014 - Municode notes are notated in BLUE**

## Attachment B

### 1. Period and Scope of the Agreement

The Vendor will provide to the City the application, infrastructure, and operational support for the software application and functionalities listed in the table below:

Table 1: Applications/Functionality supported by the Vendor under this Agreement

Application / Functionality	Number of Licenses or description of other scope of support
SMC online	N/A

Unless otherwise stated, this Agreement will become effective when the Contract is signed by the City and the Vendor, and will continue until termination of the Contract.

### 2. Vendor Services

The Vendor will assume responsibility for the services listed below to the City in support of this Agreement whether directly provided by the vendor, or provided by a 3<sup>rd</sup> party subcontractor of the Vendor:

Table 2: Vendor provided services - examples

Service	Included
Hosting Facility Services	Yes / No / Shared?
Operations/Monitoring Services	Yes / No / Shared?
Application Administration Services	Yes / No / Shared?
Software Maintenance and Upgrade Services	Yes / No / Shared? N/A
Application Recovery Services	Yes / No / Shared?
Data/Information Security Services	Yes / No / Shared?
Data Storage and Retention	Yes / No / Shared?
Network Services	Yes / No / Shared?
Problem Management/Customer Support Service	Yes / No / Shared?

#### 2.1 Hosting Facility Service - Agreed

Vendor assumes all responsibility for the computing environment supporting the hosted applications.

#### 2.2 Operations/Monitoring Services - Agreed

Applications provided by the vendor are supported by a 24 x 7 automated and alert monitoring system.

#### 2.3 Application Administration Services - Agreed

Applications provided under this agreement will be the responsibility of the Vendor. Vendor

## Attachment B

will own and manage the application, related databases, supporting computing hardware, and necessary operating systems.

### **2.4 Application Recovery Services - Agreed**

The Vendor will provide the following Recovery Services:

- Hosting Infrastructure and environment recovery processes.
- Application recovery processes.
- Offsite data backup storage via media (e.g. tape) or cloud including rotation, retention, and periodic testing of data backups

### **2.5 Data/Information Security Services – Municode will comply per the RFP response**

The Vendor will manage the Applications and City data at or above the same level of City security minimum requirements as established by the Request For Proposal (RFP) and/or Contract.

### **2.6 Data Storage and Retention - Municode will comply per the RFP response**

The Vendor will ensure City data is stored and retained in accordance with City Record Retention policies.

### **2.7 Problem Management/Customer Support Service**

The Vendor provides problem management support for all application services covered by this agreement. The City will direct problems encountered with the services provided in this agreement to a Problem Management/Customer Support contact as identified by the Vendor. Problems will be assigned a severity level based on the following criteria:

**Table 3: Problem Severity Levels** – The Municode support desk utilizes the following security levels: Urgent, High, Medium and Low. Each time a support request is issued from the City please notate what Level per the chart below. These options are present in the Municode Support widget available online at [www.municode.com](http://www.municode.com) or you can send a direct request to [support@municode.com](mailto:support@municode.com).

Problem Severity Level	Description
Severity Level 1 Urgent	Mission critical City business process(s) unable to function - The System is not functioning and there is no workaround that is acceptable to the City, thereby preventing a department or workgroup from performing a mission critical business function(s).
Severity Level 2 High	Significant impact to Mission critical City business process(s) – A major problem impedes the ability to perform mission critical business function(s) due to major functionality not working. A temporary work-around that is acceptable to the City is available.
Severity Level 3 Medium	Not able to accomplish all functions - Minor function(s) not working causing non-critical work to back up.

## Attachment B

Severity Level 4 Low	Inconvenience – The System is causing a minor disruption in the way tasks are performed, but does not stop workflow. Able to accomplish all functions, but not as efficiently as normal. May include cosmetic issues - especially in constituent facing applications.
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### 3. Service Level Standards

The Service Level Standards in Table 4 apply to the services provided by the Vendor. The Vendor shall use all commercially reasonable efforts to meet or exceed the following Service Level Standards:

Table 4: Service Level Standards

Measure	Metric	Standard	Comments
Online Accuracy	Ordinance published by the close of business on effective date	99.9% accuracy	All items in the adopted legislation must have the same effective date or be provided separately. Proofs will not be provided to the City for the electronic update in order to meet the deadline. Advance delivery of the material must be provided within 14-30 days by the City prior to the effective date.
Availability	System is available for use	99.9% Availability excluding scheduled maintenance	Availability is measured per calendar month  Nine (9) hours of maintenance per calendar quarter are scheduled as follows: <ul style="list-style-type: none"> <li>• First Weekend of each month</li> </ul>
Performance	System response time	400 percent of response time during User Acceptance Testing	See attached exhibit X for average response time for business critical transactions during User Acceptance Testing
Problem Management	Severity Level 1 Problem Resolved Urgent	100% resolved within 8 hours	Dial 1-800-262-2633 ex 1148 for Level 1 = Urgent items
	Severity Level 2 Problem Resolved High	100% resolved within 24 hours	

## Attachment B

Measure	Metric	Standard	Comments
	Severity Level 3 Problem Resolved  Medium	80% resolved within 5 working days.  100% resolved within 10 working days.	
	Severity Level 4 Problem Resolved  Low	80% resolved within 20 working days.  100% resolved within 45 working days.	
Vendor Help Desk	Help Desk call wait time	At least 99% of Help Desk calls are answered in 2 minutes or less ( a call pick-up system may be used)	1-800-262-2633 – please identify “The City of Seattle” in all emails/voice-mails.
	Help Desk call busy signal	Less that 1% of calls get a busy signal	
Support calls for Severity Level 1and Level 2	Support call Severity Level 1 and Level 2 callback time	Vendor must respond back to City in 30 minutes or less from the time the City made the call	
Data Retention	Monthly copy of City data for retention	Vendor must provide City a monthly copy of City data in a format designated by City	Material (XML and WORD) will be provided upon completion of each supplement per the schedule elected by the City.

### 3.1 Hours of support

Vendor will provide a designated support contact(s) 24 hours a day, Monday through Sunday.

1-800-262-2633 (after hours please hit the prompt for customer service to be connected)

Emergency phone contact – (850)-321-2532

[info@municode.com](mailto:info@municode.com) or [support@municode.com](mailto:support@municode.com)

Online “HELP” widget

## 4. Joint Responsibilities

### 4.1 Problem Reporting

Online “HELP” widget

The City will report concerns as appropriate to Vendor specified support contacts. City and Vendor shall jointly determine the number and type of City system administrators and/or end users that will have access to the Vendor Help Desk for problem reporting.

**4.2 User Provisioning –**

New system administrators will be created by the Vendor within x days of the City’s request. City will direct requests for new system administrators through Vendor designated contacts. Shorter provisioning times may be requested by the City in emergency situations.

**4.3 Network Services -**

The Vendor is responsible for providing adequate network infrastructure so as to meet the performance metrics specified in this agreement. The City is responsible for providing adequate internal network infrastructure so as to not affect the Vendor’s ability to meet those performance metrics. The City is responsible for the support, maintenance, and monitoring of the City’s dedicated LAN and or WAN. Vendor bears no responsibility for performance and availability problems on networks within the City’s control.

Table 6: Response Standards

Item	Service Standard	Liquidated Damages
Support calls - Severity Level 1 callback time	Vendor must respond back to City in 30 minutes or less from the time the City called	City shall assess \$1000 for failure to respond to a Level 1 call within the standard
Support calls - Severity Level 2 callback time	Vendor must respond back to City in 30 minutes or less from the time the City called	City shall assess \$ 500 for failure to respond to a Level 1 call within the standard
Availability	99.99% Availability excluding scheduled maintenance	City shall assess \$ 1000 for each 5 hour increment the system is unavailable beyond the service target.
Severity Level 1 Problem Management	100% resolved within 8 hours	\$1,000/24 hour period for 0 to 72 hours beyond standard \$ 2000/24 hour period for 73 to 168 hours beyond standard \$ 3000/24 hour period for greater than 168 hours beyond standard
Data Retention	Vendor must provide City a monthly copy of City data	City shall assess \$1,000 per day for each calendar month the data is late
Data Security	The Vendor will manage City data at or above the same level of City security minimum requirements as established by the Contract	City shall assess \$ 300 for each person impacted for each for each security breach occurrence City shall also assess the costs of providing all necessary notifications

Attachment C

STYLESHEET CHECKLIST

(To be completed and returned as soon as possible.)

Page format.

- \_\_\_ 8 1/2 x 11 Single Column
\_\_\_x\_ 8 1/2 x 11 Double Column

Font style. (As illustrated below at 11 pt. font size). Other fonts are available upon request.)

- \_\_\_ Arial (The quick brown fox jumps over the lazy dog.)
\_\_\_x\_ New Century Schoolbook (The quick brown fox jumps over the lazy dog.)
\_\_\_ Times (The quick brown fox jumps over the lazy dog.)
\_\_\_ Verdana (The quick brown fox jumps over the lazy dog.)

Font size.

- \_\_\_x\_ 10 pt. The quick brown fox jumps over the lazy dog.
\_\_\_ 11 pt. The quick brown fox jumps over the lazy dog.
\_\_\_ 12 pt. The quick brown fox jumps over the lazy dog.

Graphics.

If possible, please obtain the original digital graphic files from your source (planner, developer, etc.). The preferred digital graphics file format would be high quality .TIF/.TIFF or .PNG at 300 dpi or more. For line drawings, file formats would be EPS, .AI, or .CAD. Good quality images in .PDF format are also acceptable if none of the aforementioned files are available. Please DO NOT SCAN available hard copy images or use/send images from the internet! They will be of the lowest quality which will produce low-quality images within your print and online products.

City seal.

Seals supplied for foil stamping or silk screening on binders must be simple line art. Gradients, drop shadows, raster effects, and multiple colors do not reproduce in foil stamping. The following PC and MAC file formats are accepted: .EPS (preferred), .AL, .TIFF, .PSD, .PDF, or .PNG. It is important to scan images at 300--600 dpi.

Running heads.

Running heads are headers that appear at the top of the front and back of each page of your code. The front of the page contains the chapter title and the back of the page contains the name of your code. For example, in chapter 2, Administration, all of the fronts of pages will have ADMINISTRATION at the top, and the backs of the pages will have the name of your code in capital letters (Ex.: "ATLANTA CITY CODE," ORANGE COUNTY CODE," etc.).

Organization and style.

Table with 3 columns: checkbox, checkbox, and text. Header: Chapter arrangement. Rows include questions about alphabetical order, reserved chapters, article divisions, and existing chapter arrangements.

Attachment C

<b>Section numbering.</b>		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Use Municode style? Note: Municode style section numbering consists of the chapter number and section number separated by a dash (Ex.: section four in chapter 6 would be numbered as section 6-4).
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Keep existing section numbering?
<b>Subsection incrementors.</b>		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Use Municode style? The following is an example of Municode style subsection numbering: (a) _____ (1) _____ (2) _____ a. _____ b. _____ 1. _____ 2. _____ (b) _____
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Keep existing style?
<b>Page Numbering.</b>		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Use Municode style? ( Ex. CD1:3 (Chapter 1 page 3)
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Keep the existing page numbering?
<b>Numbers in text.</b>		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Use Municode style? Numbers ten and below are spelled out, and numbers 11 and above are expressed in Arabic numerals.
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Spell out and repeat numbers? (Ex. twenty-five (25))
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Make existing style consistent? (Change the style of numbers in text to the style that is predominantly used in the Code.)
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Use ordinance as delivered.
<b>Money in text.</b>		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Dollar amount should be followed by .00 (Ex. \$20.00)
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Dollar amount should not be followed by .00 (Ex. \$20)
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Use ordinance as delivered.
<b>Percent in text.</b>		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Should only use symbol (Ex. 75%)
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Should spell out percent (Ex. 75 percent)
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Use ordinance as delivered.
<b>Measurement in text.</b>		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Write out in text (Ex. 12 feet)
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Use abbreviation (Ex. 12 ft.)
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Use symbol (Ex. 12')

## Attachment C

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Use ordinance as delivered.
<b>Capitalization.</b>		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Use Municode style? The Municode style of capitalization keeps capitalization to minimum and key caps only proper nouns.
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Keep the existing capitalization style?
<b>Pronoun-antecedent (gender).</b>		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Use Municode style? The Municode style for pronoun-antecedent gender is to use the masculine to refer to the antecedent. (Ex. The department manager or <u>his</u> designee...)
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Degenderize (Use he/she, him/her etc.)?
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Keep existing pronoun-antecedent gender?
<b>Use of "Same—" in catchlines.</b>		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Use Municode style? When succeeding catch line use the same wording to introduce different topics, Municode uses the word "Same—" to replace repetitive language. (see below) <b>Sec. 8-1 Administrative provisions – Electrical code.</b> <b>Sec. 8-2 Same – Plumbing code.</b>
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Keep existing repeated language in catchlines?
<b>Definition lead-in.</b>		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Use Municode definition lead-in paragraph for definitions sections? (see below) The following words, terms and phrases, when used in this article (division, chapter, etc.) shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Keep existing definition lead-in?
<b>Adding subcatchlines. (See highlights below for examples of subcatchlines.)</b>		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<b>Sec. 38-33. Monument dealers and agents.</b>
(a) <i>Notification prior to work.</i> All monument dealers and agents shall notify the cemetery administrator prior to any work within the cemetery grounds.		
(b) <i>License required; showing on demand.</i> Monument dealers and agents are required to have a current city license and shall be required to show on demand by duly appointed officials of the city the license number and expiration date.		
<b>Short title sections.</b>		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Delete short title section/subsection? (Ex. This ordinance shall be known as the city's "Motor Speedway Ordinance.")
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Keep short title sections?
<b>Conform state law citations in text to Municode style?</b>		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Note: Conforming state law citations in text to Municode style will allow our

Attachment C

		software to pick up the citation and include it in the state law reference table appearing at the back of the Code. This table is numerical listing of all the state law references and the Code section in which each reference appears.
<b>History Notes/Dates</b>		
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Municode will use Ord No., § section, date (Ex. Ord. No. 1112, § 1, 1-12-13)